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सं. 36] नई दिल्ली, सितम्बर 3—सितम्बर 9, 2023, शनिवार/भाद्र 12—भाद्र 18, 1945
No. 36] NEW DELHI, SEPTEMBER 3—SEPTEMBER 9, 2023, SATURDAY/BHADRA 12—BHADRA 18, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 14 जुलाई, 2023

का.आ. 1349.—भारतीय स्टेट बैंक अधिनियम, 1955 की धारा 19 के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अनिल कुमार शर्मा के स्थान पर श्री अजय कुमार (जन्म तिथि: 20.5.1969), कार्यकारी निदेशक, भारतीय रिजर्व बैंक को तत्काल प्रभाव से और अगले आदेशों तक भारतीय स्टेट बैंक के केंद्रीय बोर्ड में निदेशक के पद पर नामित करती है।

[फा. सं. 6/3/2011-बीओ-1]

संजय कुमार मिश्र, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 14th July, 2023

S.O. 1349(E).—In exercise of the powers conferred by clause (f) of section 19 of the State Bank of India Act, 1955, the Central Government hereby nominates Shri Ajay Kumar (DOB: 20.5.1969), Executive Director, Reserve Bank of India as director on the Central Board of State Bank of India with immediate effect and until further orders, *vice* Shri Anil Kumar Sharma.

[eF. No. 6/3/2011-BO.I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 14 जुलाई, 2023

का.आ. 1350.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के पैरा 3 के उप-पैरा (1) के साथ पठित बैंकारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों के बोर्ड में तत्काल प्रभाव से और अगले आदेशों तक, निदेशक के रूप में नामित करती है:-

	(1)	(2)	(3)
1.	बैंक आफ इंडिया	श्री सुब्रत दास	श्री अशोक नारायण (जन्मतिथि : 28.10.1962)
2.	बैंक ऑफ महाराष्ट्र	श्री एम के वर्मा	श्री संजीव प्रकाश (जन्मतिथि : 08.11.1972)
3.	सेन्ट्रल बैंक आफ इंडिया	श्री पी.जे थॉमस	श्रीमती चारुलता कर (जन्मतिथि : 15.1.1967)
4.	इंडियन बैंक	डॉ. आदित्य गैहा	श्रीमती के. निखिला (जन्मतिथि : 28.8.1969)
5.	इंडियन ओवरसीज बैंक	श्री विवेक अग्रवाल	श्रीमती सोनाली सेनगुप्ता (जन्मतिथि : 04.9.1968)
6.	पंजाब नैशनल बैंक	श्री अनिल कुमार मिश्र	श्रीमती उमा शंकर (जन्मतिथि : 29.8.1966)
7.	यूनियन बैंक ऑफ इंडिया	श्री अरूण कुमार सिंह	श्री प्रकाश बलियारसिंह (जन्मतिथि : 25.6.1963)

[फा. सं. 6/3/2011-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 14th July, 2023

S.O. 1350(E).—In exercise of the powers conferred by clause (c) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-paragraph (1) of paragraph 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby nominates the persons specified in column (3) of the table below as Director on the Board of the Banks specified in column (1) thereof, in place of the persons specified in column (2) of the said table, with immediate effect and until further orders:-

	(1)	(2)	(3)
1	Bank of India	Shri Subrata Das	Shri Ashok Narain (DOB: 28.10.1962)
2	Bank of Maharashtra	Shri M K Verma	Shri Sanjeev Prakash (DOB: 8.11.1972)
3	Central Bank of India	Shri P J Thomas	Smt Charulata Kar (DOB: 15.1.1967)
4	Indian Bank	Dr Aditya Gaiha	Smt K. Nikhila (DOB: 28.8.1969)
5	Indian Overseas Bank	Shri Vivek Agrawal	Smt Sonali Sengupta (DOB: 4.9.1968)
6	Punjab National Bank	Shri Anil Kumar Misra	Smt Uma Sankar (DOB: 29.8.1966)
7	Union Bank of India	Shri Arun Kumar Singh	Shri Prakash Baliarsingh (DOB: 25.6.1963)

[eF. No. 6/3/2011-BO.I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 4 सितम्बर, 2023

का.आ. 1351.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 42 की उप-धारा (6) के खंड (क) के उप-खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग द्वारा 29 अप्रैल, 2013 को भारत के राजपत्र भाग II, खंड 3, उप-खंड (ii) में प्रकाशित अधिसूचना संख्या का.आ. 953 के अधिक्रमण में तथा ऐसे अधिक्रमण से पूर्व किए गए अथवा लोप किए गए कार्यों को छोड़कर केन्द्रीय सरकार, एतद्वारा, यह अधिसूचित करती है कि लगातार दो वर्ष के लिए टियर-3 शहरी सहकारी बैंक के रूप में वर्गीकृत किए जाने हेतु अपेक्षित न्यूनतम जमाराशि के रख-रखाव के अध्यधीन, भारतीय रिजर्व बैंक द्वारा वित्तीय रूप से सुदृढ़ और सुप्रबंधित शहरी सहकारी बैंकों के लिए निर्धारित मानदंड को पूरा करने वाले लाइसेंस प्राप्त टियर-3 तथा टियर-4 प्राथमिक (शहरी) सहकारी बैंक उक्त उप-खंड के प्रयोजनार्थ पात्र वित्तीय संस्थान होंगे।

2. यह अधिसूचना सरकारी राजपत्र में अपने प्रकाशन की तारीख से प्रवृत्त होगी।

[फा. सं. 3/16/2023-एसी]

चन्द्रगुप्त शौर्य, अवर सचिव

New Delhi, the 4th September, 2023

S.O. 1351.—In exercise of the powers conferred by sub-clause (iii) of clause (a) of sub-section (6) of section 42 of the Reserve Bank of India Act, 1934(2 of 1934) and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Financial Services, published in the Gazette of India, Part II, Section 3, Sub-section (ii) *vide* number S.O. 953 dated the 29th April, 2013, except as respects things done or omitted to be done before such supersession, the Central Government, hereby notifies that, licensed Tier 3 and Tier 4 Primary (Urban) Co-operative Banks, fulfilling the criteria stipulated for Financially Sound and Well Managed Urban Co-operative Banks by the Reserve Bank of India, subject to maintenance of minimum deposits required for categorisation as a Tier 3 Urban Co-operative Bank for two consecutive years, would be the eligible financial institutions for the purpose of the said sub-clause.

2. This Notification shall come into force from the date of its publication in the Official Gazette.

[F. No. 3/16/2023-AC]

CHANDRAGUPTA SHAURYA, Under Secy.

विदेश मन्त्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1352.—राजनयिक और कंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के राजदूतवास पनामा में श्री मनीष, सहायक अनुभाग अधिकारी, को 31 अगस्त, 2023 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(28)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 31st August, 2023

S.O. 1352.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Manish, Assistant Section Officer in the Embassy of India, Warsaw, as Assistant Consular Officer to perform Consular services with effect from August 31, 2023.

[F. No.T. 4330/01/2023(28)]

S.R.H. FAHMI, Director (CPV-I)

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1353.—राजनयिक और कंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के राजदूतवास पनामा में श्री नवीन कुमार, सहायक अनुभाग अधिकारी, को 31 अगस्त, 2023 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(29)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

New Delhi, the 31st August, 2023

S.O. 1353.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Naveen Kumar, Assistant Section Officer in the Embassy of India, Panama, as Assistant Consular Officer to perform Consular services with effect from August 31, 2023.

[F. No.T.4330/01/2023(29)]

S.R.H. FAHMI, Director (CPV-I)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय**(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1354.—केन्द्र सरकार, एतद द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केरल राज्य सरकार की अधिसूचना जी.ओ. (एमएस.) सं. 113/2022/गृह, दिनांक 09.06.2022, गृह (एससी) विभाग, तिरुवनंतपुरम [एस.आर.ओ सं. 579/2022 के रूप में प्रकाशित] और अधिसूचना जी.ओ. (एमएस) सं. 259/2022/गृह, दिनांक 09.12.2022, गृह (एससी) विभाग, तिरुवनंतपुरम [एस.आर.ओ सं. 1199/2022 के रूप में प्रकाशित] के माध्यम से जारी सम्मति से, मेसर्स यूनिवर्सल ट्रेडिंग सोल्यूशन्स प्राइवेट लिमिटेड द्वारा विभिन्न व्यक्तियों से लिए गए डिपॉजिट्स, जो भारतीय दंड संहिता (1860 का केंद्रीय अधिनियम 45), इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 (1978 का अधिनियम 43) और अविनियमित निक्षेप स्कीम पाबंदी अधिनियम, 2019 (2019 का अधिनियम 21) के प्रावधानों के तहत दंडनीय है, संबंधी अग्रलिखित तालिका में उल्लिखित मामलों एवं अन्य मामलों से जुड़े अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरण और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है:-

तालिका

क्रम सं.	पुलिस थाने का नाम	शिकायतकर्ता का नाम एवं पता	एफआईआर सं. और दिनांक	कानून की धारा
(1)	(2)	(3)	(4)	(5)
1	मलाप्पुरम	श्री थंकामनी पीके, पुत्र रमन, कूथरत हाउस, पेरुमपरंब, मेलमरि, मलाप्पुरम, केरल	अपराध सं. 315/2019 दिनांकित 10.11.2019	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506
2	मलाप्पुरम	श्री मिथुन, पुत्र रमन, कुन्नाथ हाउस, ओथुकुंगल, मत्ताथुर, मलाप्पुरम	अपराध सं. 333/2019 दिनांकित 26.11.2019	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506
3	कोट्टाक्कल	श्री शबीरअली, पुत्र अहमद, कट्टुगिल हाउस, परमबिलंगडी, एडारीक्कोड, कोट्टाक्कल, मलाप्पुरम	अपराध सं. 231/2019 दिनांकित 09.11.2019	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506
4	पालक्काड टाउन नॉर्थ	श्री मनोज कुमार, पुत्र केसवमरर के, अमृथम, अंबिका नगर, अकथेथारा, पालक्काड	अपराध सं. 795/2020 दिनांकित 25.07.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420
5	कौंगदु	श्री रामाकृष्णन, पुत्र नारायणन, कपुकड हाउस, कांजीकुलम, कौंगदु, पालक्काड	अपराध सं. 60/2020 दिनांकित 24.02.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420
6	पालक्काड कस्बा	श्री सजु देव, पुत्र सुदेवन, पौरनामी, सुरभि नगर, पुदुस्सेरी डाकखाना, पालक्काड कस्बा, पालक्काड	अपराध सं. 445/2020 दिनांकित 22.06.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420
7	पेरमंगलम	श्री विनोद कुमार, पुत्र के एस मेनन, अलाप्पट्टु वीतिल, मुंदूर देसम, अंजुर गाँव, पेरमंगलम, थ्रिस्सूर शहर, केरल	अपराध सं. 1094/2020 दिनांकित 24.07.2020	भारतीय दंड संहिता, 1860 की धारा 420 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3, 4, 5 एवं 6
8	निलंबूर	श्री अब्दुरहिमन, पुत्र कुनहरमु वल्लीक्काडन हाउस, ओक्कड, अकमपदम, एडीवन्ना, निलंबूर, मलाप्पुरम, केरल	अपराध सं. 417/2020 दिनांकित 17.09.2020	भारतीय दंड संहिता, 1860 की धारा 420, 406 और 506

9	नेडुपुझा	श्रीमति बेबी एन मेनन, पत्नी वी एन मेनन, कोराप्पथ हाउस, छिययरम देसम, छिययरम, नेडुपुझा, थिस्सूर शहर, केरल	अपराध सं. 929/2020 दिनांकित 14.10.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3, 4, 5 एवं 6
10	थिस्सूर ईस्ट	श्री सी के दिनेसन, पुत्र कोचुमोन, चेन्नगट्टु हाउस एसएनआरए II स्ट्रीट, थिस्सूर ईस्ट	अपराध सं. 3527/2020 दिनांकित 09.10.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3, 4, 5 एवं 6
11	पेरिथलमन्ना	श्री विनयन, पुत्र चन्द्रसेखरन नायर, कमला निवास, एनीप्परा रोड, मुट्टिनगल, पेरिथलमन्ना, मलाप्पुरम, केरल	अपराध सं. 843/2020 दिनांकित 16.09.2020	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3 एवं 4
12	पेरिथलमन्ना	श्री अब्दुल लथीफ, पुत्र कोयाकुट्टी, करुअल्ली हाउस, पुझाक्काट्टिरी, कडूगापुरम, कोलाथुर, मलाप्पुरम	अपराध सं. 842/2020 दिनांकित 16.09.2020	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3 एवं 4
13	पंडिक्कड	श्री अब्दुल सलाम केके, पुत्र अब्दुल करीम, कक्कीडीकडावथ हाउस, कलमकदु, पंडिक्कड, मलाप्पुरम	अपराध सं. 276/2020 दिनांकित 23.09.2020	भारतीय दंड संहिता, 1860 की धारा 34, 406 और 420
14	कोट्टाक्कल पीएस	श्री उमर फारूख, पुत्र हमसा, चोलायिल हाउस, कोझीचिना, थेनमला, कोट्टाक्कल, मलाप्पुरम, केरल	अपराध सं. 201/2019 दिनांकित 11.10.2019	भारतीय दंड संहिता, 1860 की धारा 420 और 506
15	पालघाट टाउन नॉर्थ	श्री रमेश कुमार, पुत्र कृष्णन, 102, श्रुथी लयम, श्री दुर्गा नगर, कल्लेक्कुलंगरा, पालक्काड, पालघाट टाउन नॉर्थ	अपराध सं. 76/2020 दिनांकित 05.02.2020	भारतीय दंड संहिता, 1860 की धारा 406 और 420
16	कोझिकोड कस्बा	श्री शानवास एवं श्रीमति फ़सना, पुत्र पुत्री उसमाकोया, पोट्टाम्मल हाउस, करिक्कमकुलम, करापरंबु, कोझिकोड शहर, केरल	अपराध सं. 1238/2020 दिनांकित 03.08.2020	भारतीय दंड संहिता, 1860 की धारा 406, 420 और 506 तथा इनामी चिट और धन परिचालन स्कीम (पाबंदी) अधिनियम, 1978 की धारा 3 एवं 4

[फा. सं. 228/87/2021-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 5th September, 2023

S.O. 1354.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Kerala, issued vide Notification G.O. (MS) No.113/2022/Home dated 09.06.2022, Home (SC) Department, Thiruvananthapuram [Published as S.R.O. No. 579/2022] and Notification G.O. (Ms) No. 259/2022/HOME. dated 09.12.2022, Home (SC) Department, Thiruvananthapuram [Published as S.R.O. No. 1199/2022], hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Kerala for investigation into the offence(s) relating to cases mentioned in the following table and any other cases relating to the deposits taken by M/s Universal Trading Solutions Private Limited

from various persons punishable under the provisions of the Indian Penal Code (Central Act 45 of 1860), The Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (Act 43 of 1978) and The Banning of Unregulated Deposit Schemes Act, 2019 (Act 21 of 2019) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts :-

TABLE

Sl. No.	Name of Police Station	Name & Address of the Complainant	FIR No. and Date	Sections of Law
(1)	(2)	(3)	(4)	(5)
1	Malappuram	Shri Thankamany PK, S/o Raman, Koothrat House, Perumparamb, Melmury, Malappuram, Kerala	Crime No. 315/2019 dated 10.11.2019	Sections 406, 420 and 506 of the Indian Penal Code, 1860
2	Malappuram	Shri Midhun, S/o Raman, Kunnath House, Othukungal, Mattathur, Malappuram	Crime No. 333/2019 dated 26.11.2019	Sections 406, 420 and 506 of the Indian Penal Code, 1860
3	Kottakkal	Shri Shabeerali, S/o Ahamed, Kazhugil House, Parambilangadi, Edarikkode, Kottakkal, Malappuram	Crime No. 231/2019 dated 09.11.2019	Sections 406, 420 and 506 of the Indian Penal Code, 1860
4	Palakkad Town North	Shri Manoj Kumar, S/o Kesavammar K, Amritham, Ambika Nagar, Akathethara, Palakkad	Crime No. 795/2020 dated 25.07.2020	Sections 406 and 420 of the Indian Penal Code, 1860
5	Kongadu	Shri Ramakrishnan, S/o Narayanan, Kapukad House, Kanjikkulam, Kongadu, Palakkad	Crime No. 60/2020 dated 24.02.2020	Sections 406 and 420 of the Indian Penal Code, 1860
6	Palakkad Cusba	Shri Saju Dev, S/o Sudevan, Pournami, Surabhi Nagar, Pudusserry PO, Palakkad Cusba, Palakkad	Crime No. 445/2020 dated 22.06.2020	Sections 406 and 420 of the Indian Penal Code, 1860
7	Peramangalam	Shri Vinod Kumar, S/o K S Menon, Alappatt Veetil, Mundur Desam, Anjur Village, Peramangalam, Thrissur City, Kerala	Crime No. 1094/2020 dated 24.07.2020	Section 420 of the Indian Penal Code, 1860 and sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978
8	Nilambur	Shri Abdurahiman, S/o Kunharmu Vallikkadan House, Okkad, Akampadam, Edivanna, Nilambur, Malappuram, Kerala	Crime No. 417/2020 dated 17.09.2020	Sections 420, 406 and 506 of the Indian Penal Code, 1860
9	Nedupuzha	Smt. Baby N Menon, W/o V N Menon, Korappath House, Chiyaram Desom, Chiyaram, Nedupuzha, Thrissur City, Kerala	Crime No. 929/2020 dated 14.10.2020	Sections 406 and 420 of the Indian Penal Code, 1860 and sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978
10	Thrissur East	Shri C K Dinesan, S/o Kochumon, Chenangattu House SNRA IInd Street, Thrissur East	Crime No. 3527/2020 dated 09.10.2020	Sections 406 and 420 of the Indian Penal Code, 1860 and sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978
11	Perinthalmanna	Shri Vinayan, S/o Chandrasekharan Nair, Kamala Niwas, Enippara Road, Muttingal, Perinthalmanna, Malappuram, Kerala	Crime No. 843/2020 dated 16.09.2020	Sections 406, 420 and 506 of the Indian Penal Code, 1860 and sections 3 and 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

12	Perinthalmanna	Shri Abdul Latheef, S/o Koyakutty, Karualli House, Puzhakkattiri, Kadungapuram, Kolathur, Malappuram	Crime No. 842/2020 dated 16.09.2020	Sections 406, 420 and 506 of the Indian Penal Code, 1860 and sections 3 and 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978
13	Pandikkad	Shri Abdul Salam KK, S/o Abdul Kareem, Kakkidikadavath House, Kalamkavu, Pandikkad, Malappuram	Crime No. 276/2020 dated 23.09.2020	Sections 34, 406 and 420 of the Indian Penal Code, 1860
14	Kottakkal P S	Shri Umer Faarookh, S/o Hamsa, Cholayil House, Kozhichina, Thenmala, Kottakkal, Malappuram, Kerala	Crime No. 201/2019 dated 11.10.2019	Sections 420 and 506 of the Indian Penal Code, 1860
15	Palghat Town North	Shri Ramesh Kumar, S/o Krishnan, 102, Sruthi Layam, Sree Durga Nagar, Kallekkulangara, Palakkad, Palaghat Town North	Crime No. 76/2020 dated 05.02.2020	Sections 406 and 420 of the Indian Penal Code, 1860
16	Kozhikode Cusba	Shri Shanavas and Smt. Fasna, S/o D/o Usmakoya, Pottammal House, Karikkamkulam, Karaparambu, Kozhikode City, Kerala	Crime No. 1238/2020 dated 03.08.2020	Sections 406, 420 and 506 of the Indian Penal Code, 1860 and sections 3 and 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

[F. No. 228/87/2021-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1355.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962, (1962 का 50) (इसके बाद उक्त अधिनियम कहा गया है) की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार उक्त अधिनियम के अधीन निम्न तालिका के कॉलम (2) में उल्लिखित क्षेत्र के संबंध में कॉलम (3) में उल्लिखित प्रचालनरत पेट्रोलियम पाइपलाइन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड हेतु उक्त अधिनियम के अंतर्गत सक्षम प्राधिकरण के कार्यों के निष्पादन के लिए निम्न तालिका के कॉलम (1) में उल्लिखित व्यक्ति को प्राधिकृत करती है :-

व्यक्ति का नाम और पता	क्षेत्राधिकार का क्षेत्र	पेट्रोलियम पाइपलाइन (न्स) का नाम
(1)	(2)	(3)
श्री राहुल चौहान, अनुरक्षण प्रबंधक इंडियन ऑयल कॉर्पोरेशन लिमिटेड बरौनी कानपुर पाइपलाइन्स	बिहार और झारखंड स्टेट	बरौनी कानपुर पाइपलाइन
		पटना मोतीहारी बैतालपुर पाइपलाइन
		मोतीहारी अमलेखगंज पाइपलाइन
		30" हल्दिया बरौनी पाइपलाइन
		पारादीप हल्दिया बरौनी मैनलाइन
		पारादीप हल्दिया बरौनी लूपलाइन
		पारादीप हल्दिया बरौनी मोतीहारी पाइपलाइन
		बरौनी पटना पाइपलाइन
		12" हल्दिया बरौनी पाइपलाइन

इससे पूर्व दिनांक के 11 फरवरी 2022 भारत के राजपत्र में प्रकाशित दिनांक 19 फरवरी 2022 के का.आ. 193 के अंतर्गत झारखंड राज्य में इंडियन ऑयल कॉर्पोरेशन लिमिटेड के लिए अधिसूचित सक्षम प्राधिकारी, श्री राहुल चौहान, अनुरक्षण प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, बरौनी कानपुर पाइपलाइन्स, को डी-नोटिफ़ाईड समझा जाए।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(11)/239/2017-ओ आर-I/ई-13892]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th September, 2023

S.O. 1355.—In pursuance of sub-section (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962), (hereinafter called the said Act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent Authority under the said Act for Indian Oil Corporation Limited in respect of areas mentioned in column (2) for the operational petroleum pipelines laid under the said Act mentioned in Column (3) of the said Table:-

Name and Address of the Person	Area of Jurisdiction	Name of Petroleum Pipeline(s)
Shri Rahul Chauhan, Maintenance Manager, Indian Oil Corporation Limited Barauni Kanpur Pipelines	Bihar and Jharkhand state	Barauni Kanpur Pipeline
		Patna Motihari Baitalpur Pipeline
		Motihari Amlekhganj Pipeline
		30" Haldia Barauni Pipeline
		Paradip Haldia Barauni Mainline
		Paradip Haldia Barauni Loopline
		Paradip Haldia Barauni Motihari Pipeline
		Barauni Patna Pipeline
		12" Haldia Barauni Pipeline

Earlier notified Competent Authority for Indian Oil Corporation Limited in the Bihar and Jharkhand state, Shri Rahul Chauhan, Maintenance Manager, Indian Oil Corporation Limited, vide S.O. 193 dated 11th February 2022 published in the Gazette of India dated 19th February 2022 stands de-notified.

This notification will be effective from the date of its issue.

[F. No. R-11025(11)/239/2017-OR-I/E-13892]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1356.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अधिसूचि में यथा उल्लिखित तारीखों की संख्या का.आ.द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था।

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में, सभी विल्लंगमों से मुक्त, उपयोग का अधिकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित किया था।

और सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि पेट्रोलियम उत्पाद के परिवहन के लिए आंध्र प्रदेश राज्य में हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड (एच.पी.सी.एल) की हास्सन से चेरलापल्ली प्रोजेक्ट एलपीजी पाइपलाइन बिछाई जा चुकी है, अतः उस भूमि के बारे में, जिसका संक्षिप्त इस विवरण अधिसूचना से संलग्न अनुसूची से विनिर्दिष्ट किया गया है, मार्गाधिकार गतिविधियों को आंध्र प्रदेश राज्य में समाप्त किया जाए।

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण -1 के अधीन उन तारीखों को जिन पर यह अधिसूचना भारत के राजपत्र में प्रकाशित होती है, आंध्र प्रदेश राज्य के श्री सत्य साई (नया जिला जो अनंतपुरम के कुछ हिस्सों से बना है), अनंतपुरम, नंदयाल (नया जिला जो कुर्नूल के कुछ हिस्सों से बना है) तथा कुर्नूल जिले के नीचे वर्णित गाँवों में मार्गाधिकार गतिविधियों की समाप्ति की तारीख के रूप में घोषित करती है।

अनुसूची

जिला: श्री सत्य साई (नया जिला जो अनंतपुरम के कुछ हिस्सों से बना है)		राज्य : आंध्र प्रदेश	
क्रम सं.	का.आ. सं. एवं दिनांक	गाँव का नाम	मंडल का नाम
(1)	(2)	(3)	(4)
1	2054 (E) दिनांक 25.06.2020	अमारापुरम	अमारापुरम
	4565 (E) दिनांक 29.10.2021		
2	4567 (E) दिनांक 29.10.2021	थम्माडेहल्ली	
	4568 (E) दिनांक 29.10.2021		
	311(E) दिनांक 19.01.2023		
जिला: अनंतपुरम		राज्य : आंध्र प्रदेश	
1	1466 (E) दिनांक 28.04.2020	निजावल्ली	कुंदुर्पि
2	1467(E) दिनांक 28.04.2020	कुंदुर्पि	
3	1468(E) दिनांक 28.04.2020	जम्बुगुमपाला	
4	1469(E) दिनांक 28.04.2020	एपिलेपल्ली	
5	2049(E) दिनांक 25.06.2020	बेसतरपल्ली	
6	2050(E) दिनांक 25.06.2020	कारीगन्नापल्ली	
7	2051 (E) दिनांक 25.06.2020	एस. मल्लापुरम	
8	2052 (E) दिनांक 25.06.2020	एनूमल्लादोडी	
9	2053 (E) दिनांक 25.06.2020	मुलाकानूर	कंबादूर
10	2055(E) दिनांक 25.06.2020	पाल्लूर	
11	2459 (E) दिनांक 27.07.2020	वारला	कल्याणदुर्गम
12	108(E) दिनांक 11.01.2021	मुदिनयानीपल्ली	
13	109(E) दिनांक 11.01.2021	मनीरेवु	
14	110 (E) दिनांक 11.01.2021	आत्माकुरु	आत्माकुरु
15	906 (E) दिनांक 24.02.2021	पदमातीयालेरु	
16	3017(E) दिनांक 26.07.2021	थीम्मापुरम	कुडेरु
17	3018 (E) दिनांक 26.07.2021	कुडेरु	
18	3331(E) दिनांक 11.08.2021	कामूरु	
19	3332(E) दिनांक 11.08.2021	गोटुकुरु	
20	3649(E) दिनांक 31.08.2021	टाटीचेरला	अनंतपुरम
21	3993(E) दिनांक 24.09.2021	पोडराला	बुकरायासमुद्रम
22	3994(E) दिनांक 24.09.2021	लोलुरु	सिंगनमाला
23	3995(E) दिनांक 24.09.2021	मोरताडू	गारलादीने
24	3996 (E) दिनांक 24.09.2021	गारलादीने	
25	4565(E) दिनांक 29.10.2021	बुदेडू	

26	5097 (E) दिनांक 29.11.2021	सिरिवारम	
27	5098 (E) दिनांक 29.11.2021	अंकमपेटा	
28	5099 (E) दिनांक 29.11.2021	मुंतिमाडुगु	
29	5100(E) दिनांक 29.11.2021	वंकाराजूकालवा	
30	5101(E) दिनांक 29.11.2021	नेमल्लापल्ली	पामिडी
31	4909 (E) दिनांक 17.10.2022	पामिडी	
32	4910 (E) दिनांक 17.10.2022	देवरापल्ली	
33	311(E) दिनांक 19.01.2023	अक्कजमपल्ली	
34		अय्यावारीपल्ली	गुंतकल
35		मामाडुरु	गूती
36		एरागुडी	
37		अनगनीदुडुडी	
38		पेद्दोडी	
39		मार्नेपल्ली	
40		रजापुरम	
41		खोजेपल्ली	
42		बसीनेपल्ली	
43		बेतापल्ली	
44		ऊटाकल्लू	

जिला:नंदयाल (नया जिला जो कुर्नूल के कुछ हिस्सो से बना है)

राज्य : आंध्र प्रदेश

क्रम सं.	का.आ. सं. एवं दिनांक	गाँव का नाम	मंडल का नाम
(1)	(2)	(3)	(4)
1	2056(E) दिनांक 25.06.2020	कालाचेतला	प्यापुली
2	2057(E) दिनांक 25.06.2020	एस.रंगापुरम	
3	3019(E) दिनांक 26.07.2021	पेद्दापोदीला	
4	312(E) दिनांक 19.01.2023	कोथाबुरुजु	धोन
5		एस.गुंडाला	
6		एदुपेंटा	
7		यप्पादिन्ने	

जिला: कुर्नूल

राज्य : आंध्र प्रदेश

क्रम सं.	का.आ. सं. एवं दिनांक	गाँव का नाम	मंडल का नाम
(1)	(2)	(3)	(4)
1	2058(E) दिनांक 25.06.2020	कंदमकुंतला	तुगली
2	2059(E) दिनांक 25.06.2020	कात्रिकोंडा	क्रिष्णागिरि
3	2060(E) दिनांक 25.06.2020	चित्याला	
4	2460(E) दिनांक 27.07.2020	कंबालापाडु	
5	2828(E) दिनांक 14.08.2020	क्रिष्णागिरि	
6	2829(E) दिनांक 14.08.2020	एरागुडीईनाम	
7	3019(E) दिनांक 26.07.2021	तालागोकुलापाडु	कोडुमुर
8	4032(E) दिनांक 24.09.2021	लद्दागीरी	

9	4033(E) दिनांक 24.09.2021	एरादोडु	गुडूर
10	4566(E) दिनांक 29.10.2021	अनुगोंडा	
11	4569(E) दिनांक 29.10.2021	बुदीडापाडु	
12	4908(E) दिनांक 17.10.2022	कुरुवानागलापुरम	कल्लुरु
13	4912(E) दिनांक 17.10.2022	के. मारकापुरम	
14	312(E) दिनांक 19.01.2023	पारला	
15		उल्लला	कर्नूल
16		बसावापुरम	
17		गोपालासिंगावरम	

[फा. सं. आर-11025(15)/4/2019-ओ आर-I/ई-32252]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1356.—Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, S.O. numbers and dates as mentioned in the Schedule below issued under Sub-section (i) of section 6, Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the Right of User in the said lands specified in the Schedules appended to those notifications.

AND WHEREAS, in exercise of the powers conferred by the Sub-Section (4) of Section 6 of the said Act, the Central Government vested the Right of User in the said lands free from all encumbrances in the Hindustan Petroleum Corporation Limited;

AND WHEREAS, the Competent Authority has made a report to the Central Government that the pipeline has been laid for the purpose of transportation of LPG, in the said lands and hence the operation may be terminated from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline Project in the state of Andhra Pradesh in respect of the said lands which in brief are specified in the Schedule annexed to the Notification;

“Now, therefore, as required under explanation – 1 of rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules 1963, the Central Government hereby declare the dates on which the notification is published in the Gazette of India as the date of “Termination of Operation” in ROU Village mentioned in **Sri Satya Sai (New district formed from part of Ananthapuramu)**, Ananthapuramu, **Nandyal (New district formed from part of Kurnool)**, And Kurnool district in the state of Andhra Pradesh”

SCHEDULE

District: Sri Satya Sai (New district formed from part of Ananthapuramu)			State: Andhra Pradesh
Sl.No.	S.O. No. & Date	Name of the Village	Name of the Mandal
(1)	(2)	(3)	(4)
1	2054 (E) Date 25.06.2020 4565 (E) Date 29.10.2021	Amarapuram	Amarapuram
2	4567 (E) Date 29.10.2021 4568 (E) Date 29.10.2021 311(E) Date 19.01.2023	Thammadehalli	
District: Ananthapuramu			State: Andhra Pradesh
Sl. No.	S.O. No. & Date	Name of the Village	Name of the Mandal
(1)	(2)	(3)	(4)
1	1466 (E) Date 28.04.2020	Nijavalli	Kundurpi
2	1467(E) Date 28.04.2020	Kundurpi	
3	1468(E) Date 28.04.2020	Jambugumpala	
4	1469(E) Date 28.04.2020	Apilepalle	
5	2049(E) Date 25.06.2020	Bestarapalli	
6	2050 (E) Date 25.06.2020	Kariganapalle	
7	2051 (E) Date 25.06.2020	S. Mallapuram	

8	2052 (E) Date 25.06.2020	Eenumuladoddi	
9	2053 (E) Date 25.06.2020	Mulakanur	Kambadur
10	2055(E) Date 25.06.2020	Pallur	
11	2459 (E) Date 27.07.2020	Varla	Kalayandurgam
12	108(E) Date 11.01.2021	Muddinayanipalli	
13	109(E) Date 11.01.2021	Manirevu	
14	110 (E) Date 11.01.2021	Atmakur	Atmakur
15	906 (E) Date 24.02.2021	Padamatiyaleru	
16	3017(E) Date 26.07.2021	Timmapuram	Kudair
17	3018 (E) Date 26.07.2021	Kudair	
18	3331(E) Date 11.08.2021	Kammuru	
19	3332(E) Date 11.08.2021	Gotukur	
20	3649(E) Date 31.08.2021	Taticherla	Anantapuramu
21	3993 (E) Date 24.09.2021	Podaralla	Bukkarayasamudram
22	3994 (E) Date 24.09.2021	Loluru	Singanamala
23	3995 (E) Date 24.09.2021	Marthadu	Garladinne
24	3996 (E) Date 24.09.2021	Garladinne	
25	4565(E) Date 29.10.2021	Budedu	
26	5097 (E) Date 29.11.2021	Sirivaram	
27	5098 (E) Date 29.11.2021	Ankampeta	
28	5099 (E) Date 29.11.2021	Muntimadugu	
29	5100(E) Date 29.11.2021	Vankarajukalava	Pamidi
30	5101(E) Date 29.11.2021	Nemallapalle	
31	4909 (E) Date 17.10.2022	Pamidi	
32	4910 (E) Date 17.10.2022	Devarapalle	
33	311(E) Date 19.01.2023	Akkajampalle	
34		Ayyavaripalle	Guntakal
35		Mamaduru	Gooty
36		Erragudi	
37		Aniganidoddi	
38		Peddoddi	
39		Marneapalle	
40		Rajapuram	
41		Khojjepalle	
42		Basinepalle	
43		Bethapalle	
44		Utakallu	
District: Nandyal (New district formed from part of Kurnool)			State: Andhra Pradesh
Sl.No.	S.O. No. & Date	Name of the Village	Name of the Mandal
(1)	(2)	(3)	(4)
1	2056(E) Date 25.06.2020	Kalachetla	Peapully
2	2057(E) Date 25.06.2020	S.Rangapuram	
3	3019(E) Date 26.07.2021	Peddapodilla	
4	312(E) Date 19.01.2023	Kotha Buruju	Dhone
5		S.Gundala	
6		Eddupenta	
7		Yapadinne	

District: Kurnool		State: Andhra Pradesh	
Sl.No.	S.O. No. & Date	Name of the Village	Name of the Mandal
(1)	(2)	(3)	(4)
1	2058(E) Date 25.06.2020	Kandamakuntla	Tuggali
2	2059(E) Date 25.06.2020	Katarikonda	Krishnagiri
3	2060(E) Date 25.06.2020	Chityala	
4	2460(E) Date 27.07.2020	Kambalapadu	
5	2828(E) Date 14.08.2020	Krishnagiri	
6	2829(E) Date 14.08.2020	Yerragudi Inam (Shotrium Yerragudi)	
7	3019(E) Date 26.07.2021	Tallagokulapadu	Kodumur
8	4032(E) Date 24.09.2021	Laddagiri	
9	4033(E) Date 24.09.2021	Yerradoddi	
10	4566(E) Date 29.10.2021	Anugonda	
11	4569(E) Date 29.10.2021	Budidapadu	Gudur
12	4908(E) Date 17.10.2022	Kuruva Nagalapuram	
13	4912(E) Date 17.10.2022	K.Markapuram	Kallur
14	312(E) Date 19.01.2023	Parla	
15		Ulchala	Kurnool
16		Basavapuramu	
17		Gopala Singavaram	

[F. No. R-11025(15)/4/2019-OR-I/E-32252]

P. SOMA KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 31 अगस्त, 2023

का.आ.1357.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री डी. दिवाकरन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 369/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/35/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 31st August, 2023

S.O. 1357.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 369/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri D. Divakaran, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/35/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL CHENNAI
ID 369/2001

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 04.08.2023

Sri D. Divakaran

107, Somasundaram 1st Street

Palanipet Post

Arakkonam-631002

Address as per Additional Claim

Statement

Sri D. Divakaran

No. 29, 1st Street

Somasundhar Nagar

Palanipet

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631002

2. The Commanding Officer

Rajali, Naval Air Station

Camp Post, Akash Ganga

Arakkonam-631002

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-14011/35/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. D. Divakaran who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court

and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 03.07.1993 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.
4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.
5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, D. Divakaran while examined himself as WW1, relied on 3 documents marked as (i) Three Gate passes, one for the period from July 1995 to 02.10.1996 issued on 10.04.1995, the second for the period from 21.01.1997 to 15.10.1997 issued on 22.10.1996, the third for the period from 02.03.1998 to 02.12.1998 issued on 03.12.1997 and the details of the fourth Gate Pass is not legible (ii) Attendance Register for the years 1997 to 1999 and (iii) Duty Roster for the year 1998-1999 Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 03.07.1993 as AC Operator and working continuously for more than 6 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam

and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH, RAIO and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than six years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. Ext.M17 shows the name of the Petitioner as Operator at S.No. 9, Page No. 56 with payment of Rs. 2,700/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 03.07.1993 but no document has been filed by him. But Ext.W1 contains four Gate Passes. The Contractors name, M/s Blue Star Ltd. and M/s IEC (Madras) appear on Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Four Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named

Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 03.07.1993 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 10.04.1995 by the Contractor, M/s Blue Star Ltd. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star Ltd. and M/s I EC (Madras) from 1995 to 1999 with intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 03.07.1993 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 04.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri D. Divakaran
 For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
 Rajali Arakkonam
 MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:**On the Petitioner's side.**

Ext.No.	Date	Description
Ex.W1	1995-1999	Gate Passes
Ext.W2	1997-1998	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam

Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras))
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras)) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1358.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री ए. एस. एंड्रयूज बाबू, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 363/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/27/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1358.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 363/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A.S. Andrews Babu, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/27/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 363/2001

Present: DIPTI MOHAPATRA, LL.M. PRESIDING OFFICER

Date: 04.08.2023

Sri A.S. Andrews Babu

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri A.S. Andrews Babu

N. 20/52, Vasantha Nagar

Arriyur Post, Nemmili Taluk

Vellore District

Pin Code - 631102

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/27/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A.S. Andrews Babu who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 03.05.1992 as Electrician through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e., Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A.S. Andrews Babu while examined himself as WW1, relied on 2 documents marked as (i) Two Gate Passes one for the period from 21.11.1996 to 20.02.1997 issued on 11.11.1996 and the Other Gate Pass issued on 01.12.1998 but the period is not legible (ii) Attendance Register for the years 1997 to 1999 are marked as Ext.W1 and Ext.W2. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 03.05.1992 as Electrician and working continuously for more than 7 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH, LRMR, MAGAZINE, RAO, WTS & ATC to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Electrician appears at S.No. 6, Page No. 46 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 shows the name of the Petitioner as Electrician at S.No.3 Page No. 56 with payment of Rs. 2,700/- disbursed by the Contractor,

M/s Palani Enterprises. These Ext.W16 and Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 03.05.1992 but no document has been filed by him. But Ext.W1 contains two Gate Passes. One for the period from 21.11.1996 to 20.02.1997 issued on 11.11.1996 by M/s IEC (Madras) and the Other Gate Pass issued on 01.12.1998 by M/s Palani Enterprises but the validity period is not legible whereas the Petitioner says that it is till the end of 1999. The Contractors name, M/s IEC (Madras) Blue Star Ltd. and M/s Palani Enterprises appear on Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 the extract of the Attendance Register for the period 1997 to 1999 will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Pass), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 03.05.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 11.11.1996 by the Contractor, M/s IEC (Madras). At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s M/s IEC (Madras) and M/s Palani Enterprises from 1996 to 1999 with intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 03.05.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by

Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 04.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A.S. Andrews Babu

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1996-1999	Gate Passes
Ex.W2	1997-1999	Attendance Register

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive

		Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.

Ext.M17 18.01.1999 19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1359.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री के. राधाकृष्णन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 316/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/39/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1359.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 316/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri K .Radhakrishnan, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/39/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 316/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 24.07.2023

K .Radhakrishnan

S/o S. Kadirvelu

Flat No. 52B, D.No. 04

4th Cross Street

Lakshmi Nagar, Porur

Chennai-600116

:

1st Party/Petitioner

Vs.

1. The Commanding Officer

INS Rajali Air Station

Camp Post

Arakkonam-631006

2. The Management

Rep. by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents :

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/39/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. K Radhakrishnan who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. Petitioner’s case in a nutshell is that he joined the Respondent on 15.08.1996 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for four years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff.. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 10.08.1999 before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labor Commissioner to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, vide his letter on 22.11.1999 but his such request was also turned-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry.

There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, K. Radhakrishnan while examined himself as WW1, relied on 3 documents marked as (i) Gate Pass for the year 1998-1999, 1999-2000 (ii) Extract of Attendance Register for the month of August to June 1999 (iii) Duty Roster for the month of October 1998 to December 1999 marked as Ext.W1 to Ext.W3. The Respondent examined Sh S. Jagannathan, the Asst Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.08.1996 as DG Operator and working continuously for 4 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for 4 years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. The name of the present Petitioner appears in these sheets vide Serial No 7. Ext.M9 (Page 347 to 380) shows payment made to Contractor by the Respondent for the Period 1997-1998. Ext.M10 (Page 381) is the intimation by the

Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 contains a series of documents from Page 402 to 429 including the document of payment of Rs. 1,33,000/- made by the Respondent, the MES to the Contractor, M/s R.D. Enterprises (Page No. 406) for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.08.1996 but the documents relied by the Petitioner under Ext.W1, Ext.W2 and Ext.W3 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999. Similarly the extract of the Duty Roster was for the months October 1998 to December 1999 and Ext.W1 contains two Gate Passes i.e. the Gate Pass was issued on 13.04.1998 for the year 1998-1999 and subsequent Gate Pass was issued for the years 1999-2000, On those Gate Passes, the name of the Contractors, M/s T.N.R. Enterprises and then M/s R.D. Enterprises appear respectively against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was directly employed by the Contractor, M/s T.N.R. Enterprise from the date of issuance of Gate Pass i.e on 13.04.1998 till 13.08.1999 when the Gate Pass was issued by RD Enterprises which was in force till 01.02.2000. The Petitioner fails to produce a single scrap of document, if at all he was ever employed by the Respondent as per his claim on 15.08.1996 and continued upto the issuance of the Gate Pass on 13.04.1998 by the Contractor, M/s T.N.R. Enterprises.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal which was filed 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner has newly introduced the ,failed to produce a single scrap of document to substantiate his claim of joining on 15.06.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 7 in Ext.M8 showing payment of Rs. 2,550/- in the month of September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent (Page No. 351). On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if except Ext.W1 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W2 and Ext.W3 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the

Contractor engaged the Supervisors to supervise the Petitioner and other employees. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down by their Contractor. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02 2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 24.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Radhakrishnan

For the Respondents : MW1, Sri S. Jagannathan A.G.E.(E/M) Manager
(HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	July 1998-Oct.1999 Nov. 1999-Feb.2000	Two Gate Passes
Ext.W2	Aug. 1998-June 1999	A series of extracts of Attendance Register
Ext.W3	Oct. 1998-Dec.1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam

Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997 to 14.08.1997	Must role of labour duly approved by the department
Ext.M8	15.07.1997 to 14.08.1997	Payment made by the Contractor to employees (Petitioner) Countersigned by Department
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of labour for the subject work. C.A. No. CWE/NAS/ARK/08 of 1999 to 2000 alongwith educational qualification of the individuals for approval of the department
Ext.M12	01.08.1999 to 14.09.1999	Payment made by the Contractor to his employees (Petitioner) Countersigned by Department
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1360.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री पी. राजशेखरन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 322/2001) को जैसा कि

अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/33/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1360.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 322/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri P. Rajasekaran, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/33/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 322/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 24.07.2023

Sri P. Rajasekaran
S/o P. Punniyakotti
No. 138, Soma Sundaram Nagar
1st Street, Palani Pet
Arakkonam Taluk
Pin Code-631002

:

1st Party/Petitioner

Vs.

1. The Management
Military Engineering Services
(Rep. by its Garrison Engineer)
INS Rajali
Arakkonam-631002
2. The Commanding Officer
INS Rajali, Naval Air Station
Camp Post
Akash Ganga
Arakkonam-631002

:

2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents :

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/33/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. P. Rajasekar who has been engaged through TNR

Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?"

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. Petitioner's case in a nutshell is that he joined the Respondent on 15.06.1994 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner's continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labor Commissioner to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turn-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job

through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, P. Rajasekar while examined himself as WW1, relied on (i) Gate Passes (2) for the years June 1998 to Sept. 1998 and (ii) Nov. 1999 to Feb. 2000 marked as Ext.W1 and Ext.W2. The Respondent examined Sh S. Jagannathan, the Asst Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion.

The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner. The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.06.1994 as DG Helper and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. However, the name of the present Petitioner does not appear in these sheets. Ext.M9 (Page 347 to 380) shows payment made to Contractor by the Respondent for the Period 1997-1998. Ext.M10 (Page 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 contains a series of documents from Page 402 to 429 including payment of Rs. 1,33,000/- was made by the Respondent, the MES to the Contractor, M/s R.D. Enterprises for the year 1999-2000 (Page 406). The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.06.1994 but the Petitioner relies on Two Gate Passes (three months each) i.e. from June 1998 to Sept. 1998 and Nov. 1999 to Feb. 2000. The name of the Contractors, M/s T.N.R. Enterprises and M/s R.D. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was directly employed by the Contractors for a short period of three months each. The Petitioner though claims to have joined on 15.06.1994 fails to produce a single scrap of document to show if at all he joined directed under the Respondent on 15.06.1994 till the Gate Pass was issued by the Contractors.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 06.09.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 15.04.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to

join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.06.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent (Page No. 351). On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if except Ext.W3 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W1 and Ext.W2 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are at liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and corrected and pronounced in the open court on this day the 24.07.2023)

Witnesses Examined:

For the 1 st Party/Petitioner	: WW1, Sri P. Rajasekaran
For the Respondents	: MW1, Sri S. Jagannathan A.G.E.(E/M) Manager (HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	June 1998-Sept. 1998	Two Gate Passes
	Nov. 1999-Feb.2000	

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997	Must role of labour duly approved by the department
	to	
	14.08.1997	
Ext.M8	15.07.1997	Payment made by the Contractor to employees (Petitioner) Countersigned by Department
	to	
	14.08.1997	
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of labour for the subject work. C.A. No. CWE/NAS/ARK/08 of 1999 to 2000 alongwith

		educational qualification of the individuals for approval of the department
Ext.M12	01.08.1999	Payment made by the Contractor to his employees (Petitioner) Countersigned by Department
	to	
	14.09.1999	
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ.1361.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री के.आर. सरथ बाबू, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 98/2002) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/35/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1361.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/2002) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri K.R. Sarath Babu, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/35/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL CHENNAI

ID 98/2002

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 27.07.2023

Sri K.R. Sarath Babu
C/o T. Fennwalter
161, Thambuchetty Street, 2nd Floor
Chennai-600001

Address as per Additional Claim

Statement

Sri K.R. Sarath Babu
No. 5/1, ABM Church
1st Street, Palanipet
Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer
Rajali, Naval Air Station
Camp Post
Arakkonam-631006
 2. The Management
Represented by its Garrison Engineer
Military Engineering Services
INS Rajali
Arakkonam-631006
- : 2nd Party/Respondents

Appearance:

- | | | |
|---|---|--------------------------------|
| For the 1 st Party/Petitioner | : | Advocates, M/s Balan & Haridas |
| For the 2 nd Party/Respondents | : | Advocate, Sri R. Kumar |

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/35/2000/IR(DU) dtd 21.10.2002 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. K.R. Sarath Babu who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.08.1998 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 10.04.1994 as DG Helper through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation Officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding

their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, K.R. Sarath Babu while examined himself as WW1, produced no documents. The Respondent examined Sh R. Umasankar, Asst Garrison Engineer (Contracts) (M) NAS, INS, Rajali, Arakkonam. Fifteen (15) documents were produced and marked as Ext.M1 to Ext. M15.

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-

Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 10.04.1994 as DG Helper and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M3 (Page 1 to 294) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1998. The document Ext.M4 is the Acceptance Letter of the Department (MES) with regard to the tender to undertake maintenance work by M/s T.N.R Enterprises (Page 295).

Ext.M5 is the Work Order of M/s T.N.R. Enterprises (Page 296). Ext.M6 is the Muster Roll (Page 297 to 304). Ext.M7 is the Work Order to M/s T.N.R. Enterprises (Page 305). Ext.M8 is the Work Order to the said Contractor (Page 306). Ext.M9 is the Muster Roll for the period from June 1995 to July 1995 (Page 307 to 320). Ext.M10 is the payment made to the Contractor (Page not legible). Ext.M11 is the Muster Roll for the month of September 1995 to October 1995 (Page 323 to 329). Ext.M12 is the payment made to the Contractor (Page 330 to 336). Ext.M13 is the Muster Roll for the period from Oct. 1995 to Nov. 1995 (Page 337 to 353). Ext.M14 is the Muster Roll for the period from Nov. to Dec. 1995 (Page 354 to 370). Ext.M15 is the Chief Engineer's approval for contract of Operation & Maintenance (Page 371). MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the oral evidence adduced by both the parties, it reveals that the Petitioner fails to produce a single scrap of document in support of his claim of joining on 10.04.1994 so also his so-called termination on 02.02.2000.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement filed before this Tribunal which was filed on 15.02.2001 (as per the Court seal affixed on it) or in the Additional Claim Statement (which was filed on 04.03.2019, only after the case was remanded for fresh hearing). During the course of Examination-in-Chief, the Petitioner filed no documents on his behalf but filed the Affidavit-Evidence introducing statement that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself.

In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement and not supported with any document. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 10.04.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents from his claim of date of joining till termination.

11. On the contrary the documents relied by the Respondent under Ext.M1 to Ext.M3 which are vividly discussed in preceding paragraphs gives a clear-cut picture that the Contractors viz. M/s T.N.R. Enterprises and M/s R.D. Enterprises were engaged as per the agreement executed in between them to carry out Operation and Maintenance works. In such circumstance, despite of no document filed on behalf of the Petitioner, if at all for the sake of argument it is accepted that the Petitioner was engaged for some time prior to his termination dtd. 02.02.2000, it must be under the aforesaid Contractors. In that circumstance, if any grievance was to be redressed, it should be by the Contractors. Of course, the Petitioner also failed to produce any Gate Passes, if issued by any of the Contractors or any remuneration was received from them. Accordingly, it is well evident that he has never worked under the Respondents even not under the Contractors. It is simply a concocted case for the obvious purpose.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents.

Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 27.07.2023)

LD.No.98/2002

Witnesses Examined:

For 1 st Party/Petitioner :	WW1, Sri K.R. Sarath Babu
For the Respondents :	MW1, Sri R. Umashankar, A.G.E. (Contracts) (M)

NAS, INS Rajali, Arakkonam

Documents Marked:-**On the petitioners side**

Ex.No.	Date	Description
-----	Nil-----	

On the Respondent side

Ex.No.	Date	Description
Ex.M1	19.04.1995	Contract Agreement C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam.
Ex.M2	17.06.1996	Contract Agreement C.A.No.CWE /NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam .
Ex.M3	20.07.1998	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M4	30.03.1994	Acceptance letter C.A.No.CWE (P)/NAS/ARK/18 of 1993-1994 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M5	30.03.1994	Work Order No.01 C.A.No.CWE /NAS/ARK/18 of 1993-1994 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M6	Nov 1994	Must role of labour duly approved by the department for the month Nov 1994
Ex.M7	13.05.1995	Acceptance letter C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M8	15.05.1995	Work Order No.01 C.A.No.CWE /NAS/ARK/02 of 1995-1996 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M9	15.06.1995 to 14.07.1995	Must role of labour duly approved by the department for the month Jun-Jul 1995 & Payment made by the Contractor to employees (Petitioner) Counter Signed by Department
Ex.M10	July 1995	Copy of Payment made to the Contractor by the Department (RAR).
Ex.M11	15.09.1995 to 14.10.1995	Must role labour duly approved by the department for the month Sep to Oct 1995
Ex.M12	15.09.1995 to 14.10.1995	Payment made by the Contractor to employees (Petitioner) Counter Signed by the Department.
Ex.M13	15.10.1995 to 14.11.1995	Muster Roll labour duly approved by the department for the month Oct to Nov 1995
Ex.M14	15.11.1995 to 14.12.1995	Must role labour duly approved by the department for the month Nov to Dec 1995
Ex.M15	08.07.1996	HQ CE Madras Zone letter No. 40301/712/E4 dated 08 July 1996

नई दिल्ली, 31 अगस्त, 2023

का.आ.1362.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री एस. मोहनरंगम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 333/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/22/2000-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1362.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 333/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri S. Mohanarangam, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/22/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 333/2001

Present: **DIPTI MOHAPATRA, LL.M.**
PRESIDING OFFICER
Date: 26.07.2023

Sri S. Mohanarangam
C/o T. Fennwalter
161, Thambuchetty Street, 2nd Floor
Chennai-600001

Address as per Additional Claim

Statement

Sri S. Mohanarangam
S/o A. Subramaniam Reddy
No. 4/1444 Kambar Street
Anna Nagar Natha Medu
Tiruvallur District and T.K.
Tiruninravur - 602204

: 1st Party/Petitioner

Vs.

1. The Management
Represented by its Garrison Engineer
Military Engineering Services
INS Rajali
Arakkonam-631006

2. The Commanding Officer
Rajali, Naval Air Station
Camp Post
Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-14012/22/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. S. Mohanarangam who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 15.06.1994 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute

raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, S. Mohanaragam while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1997-2000 (ii) Attendance Register for the month of 1998 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined Sh R. Umasankar, Asst Garrison Engineer (Contracts) (M) INS, Rajali, Arakkonam as MW1. Thirteen (17) documents were produced and marked as Ext.M1 to Ext. M17

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-

Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.06.1994 as DG Operator and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 297) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. The document Ext.M6 is Work Order to M/s R.D. Enterprises) (Page 298), the document Ext.M7 (Page 299 to 332) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. The document Ext.M8 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. The document Ext.M9 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to its employees and countersigned by the Department. The document Ext.M10 (Page 347 to 354) shows payment of Rs. 1,31,500/- made to Contractor, M/s T.N.R. Enterprises by the Respondent for the Period 1997-1998 (Page No. 351). The document Ext.M11 (Page 355 to 380) is the copy of the payment made to the Contractor, M/s T.N.R. Enterprises by the Department for Rs. 2,67,000/- (Page 359) for the work done period from 15.08.1997 to 14.09.1997. The document Ext.M12 (Page No. 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. The document Ext.M13 contains a

series of documents from Page 382 to 401 regarding the educational certificates. Ext.M14 (Page 402 to 414) contains the copy of payment made to the Contractor, M/s R.D. Enterprises for an amount of Rs. 1,33,000/- made by the Respondent (Page No. 406) for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from August 1999 to Sept. 1999. Ext.M15 (Page 415 to 429) discloses name of the Petitioner at S.No. 15 and paid with Rs. 2,700/- as Operator for the month of September, 1999 by the Contractor, M/s R.D. Enterprises and countersigned by the Department. The document Ext.M16 (Page 430 to 432) contains a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. Ext.M17 is also a forwarding letter of the complaint made by the Petitioner and Others to the Respondent for intervention. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.06.1994 but the documents relied is Ext.W2 and Ext.W3 are the series of extracts of the Attendance Register commencing with period from 1998 to 1999 and extract of the Duty Roster was for the period 1998 to 1999. Ext.W1 contains three Gate Passes for the period from 1997 to 1998, 1998 to 1999 by M/s TNR Enterprises and Nov. 1999 to Feb. 2000 by M/s R.D. Enterprises. The name of the Contractor, M/s T.N.R. Enterprises and M/s R.D. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the Contractors, M/s T.N.R. Enterprises as per the Gate Pass issued in Sept. 1997. So far his claim of joining the Respondent on 15.06.1994 is concerned is not also supported with any document. Rather the Gate Pass issued for the period Sept. 1997 to Jan 1998 by M/s T.N.R. Enterprises and for the period from April 1998 to Dec. 1999 clearly shows that the Petitioner was directed under those Contractors for the aforesaid period and not by the Respondents.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.08.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The Petitioner's name finds place at S.No.15 as DG Operator in Ext.M15 showing payment of Rs. 2,700/- in the month of September, 1997. The Contractor, M/s RD Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M10, Ext.M11 and Ext.M14 reveals that an amount of Rs. 1,31,500/-Rs. 267,000/- and Rs. 1,33,000/- respectively being the estimated dues paid to the respective Contractors, M/s T.N.R. Enterprises and M/s R.D. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997 and by M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, the Petitioner has relied on Ext W2 and Ext.W3 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and payment of estimated amount to

Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees.

In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext M16 & M17 that the Petitioner along with Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calender Year prior to his termination on 02.02 2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 26.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri S. Mohanaragam

For the Respondents : MW1, Sri R. Umasankar, AGR (Contracts) (M) NAS
INS, Rajali, Arakkonam

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1997-2000	Gate Passes
Ext.W2	1998-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	19.04.1995	Contract Agreement C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M2	17.06.1996	Contract Agreement C.A.No.CWE /NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.

Ex.M3	20.07.1998	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M4	20.06.1997	Acceptance letter C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M5	07.07.1997	Work Order No. 01 C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M6	05.08.1999	Work Order No.01 C.A.No.CWE /NAS/ARK/08 of 1999-2000 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. R.D.Enterprises
Ex.M7	15.07.1997	Declaration the Contractor for appointment of labour for the subject work on S.No.4 along with educational qualification of the individuals for approval of the department.
Ex.M8	15.08.1997 to 14.09.1997	Must role of labour duty approved by the department
Ex.M9	15.08.1997 to 14.09.1997	Payment made by the Contractor to his employees (Petitioner employees) Counter signed by Deptt.
Ex.M10	16.08.1997	Copy of Payment made to the Contractor by the Department (1 st Running Account Receipt)
Ex.M11	16.09.1997	Copy of Payment made to the Contractor by the Department (2 nd Running Account Receipt)
Ex.M12	16.08.1997	Intimation of Contractor to the Department reg. hike in Minimum fair Wages letter
Ex.M13	01.09.1999	Declaration of the contractor for appointment of labour for the subject work C.A. No. CWE/NAS/Ark/08 of 1999 to 2000 along with educational qualification of the individuals for approval of the deptt. - M/s. RD Enterprises
Ex.M14	22.10.1999	Copy of payment made to the Contractor by the Department C.A. No.CWE/NAS/ARK/08 of 1999 to 2000 (1 st Running Account Receipt) M/s. RD Enterprises
Ex.M15	01.08.1999 to	Payment made by the Contractor M/s. RD Enterprises to his employees (Petitioner) Counter

	14.09.1999	signed by Department.
Ex.M16	18.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises
Ex.M17	04.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises through INS Rajali Arakkonam.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1363.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री पी. जयकुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 332/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/23/2000-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1363.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 332/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri P. Jayakumar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/23/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 332/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 26.07.2023

Sri P. Jayakumar

C/o T. Fennwalter

161, Thambuchetty Street, 2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri P. Jayakumar

No. 7/5, Chairman Panchatsaram Street

Gandhi Nagar

Arakkonam

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/23/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. P. Jayakumar who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 15.08.1996 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but

his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e., Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, P. Jayakumar while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1996-2000 (ii) Attendance Register for the month of 1998 to June 1999 and (iii) Duty Roster for the month R. Umasankar, Asst Garrison Engineer (Contracts) (M) NAS, INS, Rajali, Arakkonam as MW1. Seventeen (17) documents were produced and marked as Ext.M1 to Ext. M17.

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.08.1996 as DG Operator and working continuously for 4 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any

employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 297) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. The document Ext.M6 is Work Order to M/s R.D. Enterprises (Page 298), the document Ext.M7 (Page 299 to 332) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. The document Ext.M8 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. The document Ext.M9 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to its employees and countersigned by the Department. The document Ext.M10 (Page 347 to 354) shows payment of Rs. 1,31,500/- made to Contractor, M/s T.N.R. Enterprises by the Respondent for the Period 1997-1998 (Page No. 351). The document Ext.M11 (Page 355 to 380) is the copy of the payment made to the Contractor, M/s T.N.R. Enterprises by the Department for Rs. 2,67,000/- for the work done period from 15.08.1997 to 14.09.1997. The document Ext.M12 (Page No. 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. The document Ext.M13 contains a series of documents from Page 382 to 401 regarding the educational certificates. Ext.M14 (Page 402 to 414) contains the copy of payment made to the Contractor, M/s R.D. Enterprises for an amount of Rs. 1,33,000/- made by the Respondent (Page No. 406) for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from August 1999 to Sept. 1999. Ext.M15 (Page 415 to 429) discloses name of the Petitioner at S.No. 5. The document Ext.M16 (Page 430 to 432) contains a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. Ext.M17 is also a forwarding letter of the complaint made by the Petitioner and Others to the Respondent for intervention. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.08.1996 but the documents relied is Ext.W2 and Ext.W3 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999 and extract of the Duty Roster was for the months October 1998 to December 1999. Ext.W1 contains three Gate Passes for the period January 1996 to April 1997, January 1999 to July 1999 and Nov. 1999 to Feb. 2000 issued by M/s T.N.R. Enterprises and M/s R.D. Enterprises. The name of the Contractor, M/s T.N.R. Enterprises and M/s R.D. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the Contractors, M/s T.N.R. Enterprises as per the Gate Pass issued in January 1996. So far his claim of joining the Respondent on 15.08.1996 is concerned is not also supported with any document. Rather the Gate Pass issued for the period January 1999 by M/s T.N.R. Enterprises and for the period from November 1999 to February 2000 clearly shows that the Petitioner was directed under those Contractors for the aforesaid period and not by the Respondents.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.08.1996 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No.5 as DG Helper in Ext.M15 showing payment of Rs. 2,700/- in the month of September, 1997. The Contractor, M/s RD Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M10 and Ext.M14 reveals

that an amount of Rs. 1,31,500/- and Rs. 1,33,000/- being the estimated dues paid to the respective Contractors, M/s T.N.R. Enterprises and M/s R.D. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997 and by M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, the Petitioner has relied on Ext W2 and Ext.W3 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees.

In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext M16 & M17 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02 2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 26.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Jayakumar

For the Respondents : MW1, Sri R.Umasankar, AGE (Contracts) (M), INS,
Rajali, Arakkonam

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1996-2000	Gate Passes
Ext.W2	1998-June 1999	Attendance Register f
Ext.W3	1998-2000	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	19.04.1995	Contract Agreement C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M2	17.06.1996	Contract Agreement C.A.No.CWE /NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M3	20.07.1998	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M4	20.06.1997	Acceptance letter C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M5	07.07.1997	Work Order No. 01 C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M6	05.08.1999	Work Order No.01 C.A.No.CWE /NAS/ARK/08 of 1999-2000 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. R.D.Enterprises
Ex.M7	15.07.1997	Declaration the Contractor for appointment of labour for the subject work on S.No.4 along with educational qualification of the individuals for approval of the department.
Ex.M8	15.08.1997 to 14.09.1997	Must role of labour duty approved by the department
Ex.M9	15.08.1997 to 14.09.1997	Payment made by the Contractor to his employees (Petitioner employees) Counter signed by Deptt.
Ex.M10	16.08.1997	Copy of Payment made to the Contractor by the Department (1 st Running Account Receipt)
Ex.M11	16.09.1997	Copy of Payment made to the Contractor by the Department (2 nd Running Account Receipt)
Ex.M12	16.08.1997	Intimation of Contractor to the Department reg. hike in Minimum fair Wages letter
Ex.M13	01.09.1999	Declaration of the contractor for appointment of

		labour for the subject work C.A. No. CWE/NAS/Ark/08 of 1999 to 2000 along with educational qualification of the individuals for approval of the department Name of Contractor M/s. RD Enterprises
Ex.M14	22.10.1999	Copy of payment made to the Contractor by the Department C.A. No.CWE/NAS/ARK/08 of 1999 to 2000 (1 st Running Account Receipt) M/s. RD Enterprises
Ex.M15	01.08.1999 to 14.09.1999	Payment made by the Contractor M/s. RD Enterprises to his employees (Petitioner) Counter signed by Department.
Ex.M16	18.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises
Ex.M17	04.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises through INS Rajali Arakkonam.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1364.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री एन. चंद्रशेखर कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 362/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/26/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1364.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 362/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri N. Chandrasekhar Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/26/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 362/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 04.08.2023

Sri N. Chandrasekhar Kumar

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri N. Chandrasekhar Kumar

No. 26, Dr. Ambedkar Street

Pallikaranai

Chennai-600100

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/26/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. N. Chandrasekhar Kumar who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 17.04.1996 as AC Helper/Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer-Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, N. Chandrasekhar Kumar while examined himself as WW1, relied on 3 documents marked as (i) Gate Pass for the period from 01.03.1999 to 01.12.1999 (ii) Attendance Register for the year 1997 to 1998 and (iii) Duty Roster from 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 17.04.1996 as AC Helper/Operator and working continuously for more than 3 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE & AGE etc. The Petitioner was working at ATH, ATC, MAGAZINE and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than three years and paid with only the basic salary and without any other

benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. Ext.M17 shows the name of the Petitioner as helper at S.No. 18, Page No. 57 with payment of Rs. 2,300/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 17.04.1996 but no document has been filed by him. But Ext.W1 contains Gate Pass for the period from 01.03.1999 to 01.12.1999 issued by M/s Palani Enterprises on 21.12.1998. The Contractor's name, M/s Palani Enterprises appear on Gate Pass as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractor. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1998 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Three Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.06.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 21.12.1998 by the Contractor, M/s Blue Star Ltd. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star Ltd. and M/s IEC (Madras) from 1995 to 1999 with

intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 17.04.1996 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 04.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri N. Chandrasekhar Kumar

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	1998-1999	Gate Pass
Ext.W2	1997-1998	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation

		and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01
		C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras))
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त 2023

का.आ. 1365.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री ए. थिव्या राज, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 361/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/25/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1365.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 361/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A Thivya Raj, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/25/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 361/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER**Date: 03.08.2023**

Sri A Thivya Raj

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim**Statement**

Sri A. Thivya Raj

No. 68, 2nd Street

Somasundhar Nagar

Palanipet*

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/25/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A Thivya Raj who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court

of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 1.6.1992 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

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5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A. Thivya Raj while examined himself as WW1, relied on 2 documents marked as (i) Three Gate passes from 1995-1999 (ii) Attendance Register for the year 1998 to 1999 and are marked Ext.W1 to Ext.W2. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

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them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Operator appears at S.No. 27, Page No. 48 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 shows the name of the Petitioner as Operator at S.No. 9, Page No. 56 with payment of Rs. 2,700/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.06.1992 but no document has been filed by him. But Ext.W1 contains two Gate Passes. The first Gate Pass is issued by M/s Blue Star Ltd. on 10.04.1995 and the second Gate Pass is by M/s Blue Star Ltd. is for the period from 07/1995 to 09/1996 and the third Gate Pass is issued by M/s IEC (Madras) for the period from Jan, 1997 to Oct. 1997. The Contractors name, M/s Blue Star Ltd. and M/s IEC (Madras) appear on Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1998 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of

verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Three Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.06.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 10.04.1995 by the Contractor, M/s Blue Star Ltd. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star Ltd. and M/s I EC (Madras) from 1995 to 1999 with intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.06.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 03.08.2023)

Witnesses Examined:For the 1st Party/Petitioner : WW1, Sri A. Thivya RajFor the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)**Documents Marked:****On the Petitioner's side.**

Ext.No.	Date	Description
Ex.W1	1995-1999	Gate Passes
Ext.W2	1997-1998	Attendance Register

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam

Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1366.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री एस .साइमन सुंदरराज, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 360/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/24/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1366.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 360/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri S. Simon Sundarraaj, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/24/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT &EPF APPELLATE TRIBUNAL, CHENNAI

ID 360/2001

Present: DIPTI MOHAPATRA, LL.M.,PRESIDING OFFICER

Date: 03.08.2023

Sri S. Simon Sundarraaj
C/o T. Fennwalter
161, Thambuchetty Street
2nd Floor
Chennai-600001

Address as per Additional Claim

Statement

Sri S. Simon Sundarraaj
No. 30/45 A.N. Kandigai
3rd Street, Palanipet
Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer
Rajali, Naval Air Station
Camp Post
Arakkonam-631006

2. The Management
Represented by its Garrison Engineer
Military Engineering Services
INS Rajali

Arakkonam-631006 : 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner : Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents : Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/24/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. S. Simon Sundarraj who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 01.06.1992 as AC Helper through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, S. Simon Sundarraj while examined himself as WW1, relied on 3 documents marked as (i) Two Gate passes from 1998-1999 (ii) Attendance Register for the month of 1998 to 1999 and (iii) Duty Roster for the month of

1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 01.06.1992 as AC Operator and working continuously for more than 7 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH, LRMR, MAGAZINE and WTS to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Operator appears at S.No. 8, Page No. 46 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 (Second List) shows the name of the Petitioner as Operator at S.No. 11, Page No. 54 with payment of Rs. 1,350/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.06.1992 but no document has been filed by him. But Ext.W1 contains two Gate Passes. The first Gate Pass is for the period from November 1995 to October 1996 issued by M/s Blue Star Ltd. on 17.08.1995 and the second Gate Pass is for the period from 01.01.1999 Dec. 1999 issued by M/s Palani Enterprises on 01.12.1998. The Contractors name, M/s Blue Star Ltd. and M/s Palani Enterprises appear on both the Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1998 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Two Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.06.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 17.08.1995 by the Contractor, M/s Blue Star Ltd. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star Ltd. and Palani Enterprises from 1995 to 1999 with intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.06.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 03.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri S. Simon Sundar Raj

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1995-1999	Gate Passes
Ext.W2	1998-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive

		Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras))
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras)) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1367.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री जे. मुथु, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 359/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/23/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1367.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 359/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri J. Muthu, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/23/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 359/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 03.08.2023

Sri J. Muthu

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri J. Muthu

No. 248, Agan Nagar

Palanipet

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner : Advocates, M/s Balan & HaridasFor the 2nd Party/Respondents : Advocate, Sri R. Kumar**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/23/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. J. Muthu who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 18.10.1996 as AC Helper through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by

engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, J. Muthu while examined himself as WW1, relied on 3 documents marked as (i) Two Gate passes from 1998-1999 (ii) Attendance Register for the month of 1997 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 18.10.1996 as AC Helper and working continuously for more than 3 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATC to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the

Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Helper appears at S.No. 20, Page No. 47 under Ext.M16, paid with Rs. 2,100/-. Ext.M17 shows the name of the Petitioner as Helper at S.No. 15, Page No. 51 with payment of Rs. 2,300/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 18.10.1996 but no document has been filed by him. But Ext.W1 contains two Gate Passes issued for the period from March 1999 to August 1999. It is found the second Gate Pass is nothing but a repetition of first Gate Pass since bears the validity period from March 1999 to Dec.1999 by M/s Palani Enterprises. The Contractor's name, M/s Palani Enterprises appears on both the Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Two Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.06.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 01.12.1998 by the Contractor, M/s Palani Enterprises. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Palani Enterprises from 01.03.1999 to 12/1999. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 18.10.1996 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged by M/s IEC (Madras) and M/s Palani Enterprises and was paid adequately vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to

show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 03.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri J. Muthu

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1998-1999	Gate Pass
Ext.W2	1997-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of

		1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
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Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
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Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
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Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras))
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent

		Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1368.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबंधित नियोजकों और श्री ए. सैयद करीमुल्ला, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 358/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

सं. एल -14011/22/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1368.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 358/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A. Syed Karimulla, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/22/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 358/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 03.08.2023

Sri A. Syed Karimulla

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri A. Syed Karimulla

No. 39/61, Mosque Street

Arakkonam-631001

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner : Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents : Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/22/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A. Syed Karimullah who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 01.06.1992 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down.

The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e., Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A. Syed Karimullah while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1998-1999 (ii) Attendance Register for the month of 1997 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer–Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 01.06.1992 as AC Operator and working continuously for more than 7 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATC and ATH to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the

Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Operator appears at S.No. 16, Page No. 47 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 shows the name of the Petitioner as Operator at S.No. 10 (Second List), Page No. 54 with payment of Rs. 1,350/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that the Attendance and Muster Roll which were maintained also signed by the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.06.1992 but no document has been filed by him. But Ext.W1 containing only one Gate Pass issued for the period from March 1999 to Dec. 1999 by M/s Palani Enterprises. The Contractor's name appears on the Gate Pass as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Pass), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.06.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 01.12.1998 by the Contractor, M/s Palani Enterprises. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Palani Enterprises from 01.03.1999 to 12/1999. The above fact as discussed clearly shows the Petitioner engaged only by the Contractor and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.06.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other

Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged by M/s IEC (Madras) and M/s Palani Enterprises and was paid adequately vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 03.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A. Syed Karimulla

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2, Sri K. Ramkumar, AGE (E/M)

Documents Marked:

On the Petitioner's side.

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		Department (M/s Industrial Engineering Corporation (Madras)
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Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1369.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री डी. राजशेखरन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 357/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/21/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

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[No. L-14011/21/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 357/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 02.08.2023

Sri D. Rajasekaran

C/o T. Fennwalter

161, Thambuchetty Street

2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri D. Rajasekaran

No. 35/44, Municipal Quarters

T.B. Road

Arakkonam-631003

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/21/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. D. Rajasekaran who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

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6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 08.03.1993 as AC Operator and working continuously for more than 6 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATC, ATH and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is

stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Operator appears at S.No. 31, Page No. 48 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 shows the name of the Petitioner as Operator at S.No. 5, Page No. 56 with payment of Rs. 2,700/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 08.03.1993 but no document has been filed by him. But Ext.W1 contains only one Gate Pass. This Gate Pass was issued on 01.12.1998 by M/s Palani Enterprises whose name appears as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Passes), Ext.W2, the extract of Attendance Register and the Duty Roster alongwith other documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 08.03.1993 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of the Gate Pass on 01.12.1998 by the Contractor, M/s Palani Enterprises. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Palani Enterprises. The above fact as discussed clearly shows the Petitioner engaged only by the above named Contractors for short spell of time and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their

respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 08.03.1993 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged by M/s IEC (Madras) and M/s Palani Enterprises and was paid adequately vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he

was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calender Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 02.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri D. Rajasekaran

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1998-1999	Gate Pass

Ext.W2	1997-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation

		and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1370.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री ए. रहमथुल्ला, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 355/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/19/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1370.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 355/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A. Rahamathulla, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/19/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI****ID 355/2001****Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER****Date: 02.08.2023**

Sri A. Rahamathulla
C/o T. Fennwalter
161, Thambuchetty Street
2nd Floor
Chennai-600001

Address as per Additional Claim**Statement**

Sri A. Rahamathulla
Old No. 124, New No. 8
Ocheri Road, Krishnampet
Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Management

Represented by its Garrison Engineer
Military Engineering Services
INS Rajali
Arakkonam-631006

2. The Commanding Officer

Rajali, Naval Air Station
Camp Post
Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner : Advocates, M/s Balan & HaridasFor the 2nd Party/Respondents : Advocate, Sri R. Kumar**AWARD**

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The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 17.04.1996 as AC Operator and working continuously for more than 3 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They

were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATC, ATH and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Operator appears at S.No. 15, Page No. 47 under Ext.M16, paid with Rs. 2,550/-. Ext.M17 shows the name of the Petitioner as Operator at S.No. 13, Page No. 51 with payment of Rs. 2,700/- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 17.04.1996 but no document has been filed by him. But Ext.W1 contains three Gate Passes. The first Gate Pass is not legible nor speaks about the tenure and date of issuance of pass. The second Gate Pass was issued on 22.10.1996 and valid for the period from 31.10.1996 till 15.11.1997. The third Gate Pass was issued on 01.12.1998 from 01.03.1999 to 01.12.1999. The first Gate Pass is issued by the Contractor, M/s Blue Star, the second Gate Pass is issued by M/s IEC (Madras) and the third Gate Pass is issued by M/s Palani Enterprises which appears as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster for the period 1998 to 1999 respectively will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the

Petitioner under Ext.W1 (Gate Passes), Ext.W2, the extract of Attendance Register and the Duty Roster alongwith other documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 17.04.1996 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of the second Gate Pass (first Gate Pass is not legible) on 20.06.1996 by the Contractor, M/s Industrial Engineering Corporation. At the cost of repetition, even if the Gate Pass is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s IEC (Madras). The above fact as discussed clearly shows the Petitioner engaged only by the above named Contractors for short spell of time and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 17.04.1996 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage/remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged by M/s IEC (Madras) and M/s Palani Enterprises and was paid adequately vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 02.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A. Rahamathulla

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:**On the Petitioner's side.**

Ext.No.	Date	Description
Ex.W1	1996-1999	Gate Pass
Ext.W2	1997-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01

		C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01
		C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01
		C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1371.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और पी. जोसेफ राजकुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 353/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/17/2000-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1371.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 353/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri P. Joseph Rajakumar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/17/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 353/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 02.08.2023

Sh P Joseph Rajakumar
C/o T.Fennwalter HF-194-D
161, Thambuchetty Street
Chennai

Address as per Additional Claim

Statement

Sri P. Joseph Raja Kumar
No. 88/97 Murugapan Street,
Stuartpet

Arakkonam-631001 : 1st Party/Petitioner

Vs.

1. The Commanding Officer
Rajali, Naval Air Station
Camp Post
Arakkonam-631006

2. The Management
Represented by its Garrison Engineer
Military Engineering Services
INS Rajali

Arakkonam-631006 : 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner : Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents : Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/17/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh P.Joseph Rajakumar who has been engaged through Palani Enterprises for

operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?’

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of some of the petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 15.06.1994 as AC Mechanic through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, P. Joseph Rajakumar while examined himself as WW1, relied on 2 documents marked as (i) Gate pass from 1994-1999 and (ii) Attendance Register for the month of 1998 to 1999 are marked Ext.W1 and Ext.W2. The Respondent examined two witnesses Sh R. Uma Sankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and K. Ramkumar Asst Garrison Engineer (E/M) as MW2. Seventeen (17) documents were produced and marked as Ext.M1 to Ext. M17.

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act

(iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.06.1994 as AC Mechanic and working continuously for more than 5 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH, LRMR, MAGAZINE, RAO, WTS and ATC. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ram Kumar, Assistant Garrison Engineer(E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras), M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. Ext.M17 shows the name of the Petitioner as Mechanic at S.No. 1, Page No. 50 with payment of Rs. 2,770- disbursed by the Contractor, M/s Palani Enterprises. This Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that the Attendance and Muster Roll which were maintained also signed by the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.6.1994 but no document has been filed by him. But Ext.W1 containing three Gate Passes i.e. discloses that Gate Passes were issued for the period from July 1995, Nov. 1995 to 1996 and March 1997 to 1999 by M/s Blue Star, M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises. The Contractors name appears on all the Gate Passes as against the column meant for

Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on one more document viz. Ext.W2 the extract of the Attendance Register for the period 1997 to 1999 will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 categorically states that the Attendance Registers is signed by the respective Contractor and Countersigned by the Department in token of verification it reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they disburse to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 15.06.1994 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 25.11.1995 by the Contractor, M/s Blue Star. At the cost of repetition, even if the Gate Passes are taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star, M/s Palani Enterprises with intermittent gap from 1995 to 1999. Besides, the Petitioner produced a Gate Pass for the Nov. 1999 to Dec. 2000 issued by the Contractor, M/s TNR Enterprises. The above fact as discussed clearly shows the Petitioner was never engaged by the Respondents.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.06.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 02.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Joseph Rajakumar

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2, Sri K. Ramkumar Asst Garrison Engineer
(E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1994-1999	Gate Passes
Ext.W2	1998-1999	Attendance Register

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam

Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1372.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री के. पार्थसारथी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 352/2001) को जैसा

कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/16/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1372.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 352/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri K. Parthasarathy, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/16/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 352/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 01.08.2023

Sh K. Parthasarathy

C/o T. Fennwalter

161, Thambuchetty Street

Chennai

Address as per Additional Claim

Statement

Sri K. Parthasarathy

S/o I. Krishnan (Late)

Old No. 7, 3rd Street

Soma Sundaram Street

Palanipet

Arakkonam-631001

:

1st Party/Petitioner

Vs.

1. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631002

2. The Commanding Officer

Rajali, Naval Air Station

Camp Post, Akash Ganga

Arakkonam-631002

:

2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner : Advocates, M/s Balan & Haridas
 For the 2nd Party/Respondents : Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/16/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh K. Parthasarathy who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of some of the petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner’s case in a nutshell is that he joined the Respondent on 01.07.1992 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing

for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, K. Parthasarathy while examined himself as WW1, relied on 2 documents marked as (i) Gate pass from 1995-1999, (ii) Attendance Register for the month of 1997 to 1999 and (iii) Duty Roster for the month of 1998-1999 are marked Ext.W1 to Ext.W3. The Respondent examined two witnesses Sh R. Uma Sankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and K. Ramkumar, Asst Garrison Engineer (E/M) as MW2. Seventeen (17) documents were produced and marked as Ext.M1 to Ext. M17.

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 01.07.1992 as AC Operator and working continuously for more than 7 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH and ATC. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ram Kumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras), M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors

viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner as Helper appears at S.No. 27 at Page 47 under Ext.M16. The Petitioner was paid Rs. 2100/-. Ext.M17 is the payment made by the Contractor, M/s Palani Enterprises to the Petitioner and Other Petitioners in the batch case for the period 19.12.1998 to 18.01.1999 showing the disbursement of Rs. 2,700/- to the Petitioner as Operator at S.No. 14, Page No. 51. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that the Attendance and Muster Roll which were maintained also signed by the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.07.1992 but no document has been filed by him. But Ext.W1 containing two Gate Passes i.e. discloses that Gate Passes were issued for the period from 16.11.1995 till 12.12.1998 issued by M/s Blue Star. The second Gate Pass was issued by M/s Palani Enterprises for the 01.03.1999 to 01.12.1999. The Contractors name appear on all those Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the Attendance Register for the period 1997 to 1999 and the Duty Roster for the period from 1998 to 1999 will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 categorically states that the Attendance Registers is signed by the respective Contractor and Countersigned by the Department in token of verification. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they disburse to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Passes), Ext.W2, the extract of Attendance Register and Ext.W3 Duty Roster alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17, undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 01.07.1992 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 16.11.1995 by the Contractor, M/s Blue Star. At the cost of repetition, even if the Gate Passes are taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star and M/s Palani Enterprises with intermittent gap from 1995 to 1999. The above fact as discussed clearly shows the Petitioner was never engaged by the Respondents.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.07.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by

Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calender Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 01.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Parthasarathy
For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2, Sri K. Ramkumar Asst Garrison Engineer
(E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1994-1999	Gate Passes
Ex.W2	1998-1999	Attendance Register

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive

		Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras))
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras)) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1373.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री एल. एडविन राजन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 351/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-14011/14/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1373.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 351/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri L. Edwin Rajan, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/14/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 351/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 01.08.2023

Sri L. Edwin Rajan

HF-194-D

Railway Quarters

Palanipet

Arakkonam-631002

Address as per Additional Claim

Statement

Sri L. Edwin Rajan

S/o A. Lourdu Samy

No. 16/a T.N. Nagar

8th Street, Palanipet

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner : Advocates, M/s Balan & HaridasFor the 2nd Party/Respondents : Advocate, Sri R. Kumar**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/14/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. L. Edwin Rajan who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 19.09.1989 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by

engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, L. Edwin Rajan while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1995-1999 (ii) Attendance Register for the month of 1997 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined Sh R. Uma Sankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M), INS, Rajali, Arakkonam Seventeen (17) documents were produced and marked as Ext.M1 to Ext. M17.

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer–Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer–Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 19.09.1989 as AC Operator and working continuously for more than 10 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working in MES, INS Rajali, Arakkonam for nearly 7 long years at various locations like ATH, SONA BAI AND LRMR to be best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for seven years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras), M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The Petitioner's name appears as Operator at S.No. 14 at Page 47 of Ext.M16 and an amount of Rs. 2,550/- was disbursed. Similarly Ext.M17 is the payment made by the Contractor, M/s Palani Enterprises to its employees for the period 19.12.1998 to 18.01.1999. The name of the Petitioner as Operator finds place at S.No. 12, Page No. 51 showing disbursement of Rs. 2,700/-. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all these documents and the Attendance and Muster Roll Registers are maintained and also signed by the Department in token of verification.

9. The Counsel for both parties advanced their arguments in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 19.09.1989 but the documents relied is Ext.W1 containing three Gate Passes i.e. for the period from July 1995, Nov. 1995 to 1996 and March 1997 to 1999 issued by M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioner though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster Register for 1998 to 1999 no way substantiates the claim of the Petitioner that he was directly employed under the Respondents. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Passes), Ext.W2 and Ext.W3, the extract of Attendance Register and Duty Roster alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 19.09.1989, is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 09.07.1995 by the Contractor, M/s Blue Star. At the cost of repetition, even if the Gate Passes are taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star and M/s Palani Enterprises with intermittent gap from 1995 to 1999 which clearly shows the Petitioner did not work continuously for that period even with the Contractors.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 19.09.1989 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch case were made by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been adequately for their engagement by the respective Contractors. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such

circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 01.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri L. Edwin Rajan

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1995-1999	Gate Passes
Ex.W2	1997-1999	Attendance Register
Ex.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam

Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
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Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1374.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री पी.टी. जगदीश कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 349/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/12/2000-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1374.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 349/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri P.T. Jagadeesh Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/12/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI ID 349/2001

Present: **DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER**

Date: 01.08.2023

Sri P.T. Jagadeesh Kumar

437/A, Railway Quarters

Winterpet

Arakkonam-631005

Address as per Additional Claim

Statement

Sri P.T. Jagadeesh Kumar

No. 26/61 (F2) Sri Jothi Illam

Bajanai Koil Street

Puzuthivakkam

Chennai-600091

: 1st Party/Petitioner

Vs.

1. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

2. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/12/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. P.T. Jagadeesh Kumar who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 29.10.1992 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation

officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, P.T. Jagadeesh Kumar while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1995-1999 (ii) Attendance Register for the month of 1997 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 29.10.1992 as AC Operator and working continuously for more than 7 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at “E” ATC (Air Traffic Control) and only on one occasion was transferred to “G” ATH (Air Traffic Hanger-Helicopter) for about two to three months. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri R. Uma Sankar the Assistant Garrison Engineer (Contract) (M) NAS Rajali. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (Madras), M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (Madras) Ext M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document Ext.M6 to Ext.M10 are the Work Orders issued to respective contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractors M/s Industrial Engineering Corporation (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. The name of the Petitioner appears at S.No. 17, Page No. 46 in Ext.M16 showing payment of Rs. 2,550/-. Ext.M17 is also a disbursement by the Contractor, M/s Palani Enterprises towards its employees for the period from 19.12.1998 to 18.01.1999. The name of the Petitioner appears at S.No. 4, Page No. 56 of Ext.M17 showing payment of Rs. 2,700/- him as Operator. It is stated by MW2 that all the relevant documents are signed by the respective Contractors and countersigned by the Official of the Respondent in taken of verification.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 29.10.1992 but the documents relied is Ext.W1 containing three Gate Passes i.e. for the period from July 1995, Nov. 1995 to 1996 and March 1997 to 1999 issued by M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The Petitioners though relied on two more documents viz. Ext.W2 and Ext.W3, the extract of the Attendance Register for the period 1997 to 1999 and Duty Roster Register for 1998 to 1999 no way substantiates the claim of the Petitioner that he was directly employed under the Respondents. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Gate Passes), Ext.W2 and Ext.W3, the extract of Attendance Register and Duty Roster alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 29.10.1992, is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till issuance of Gate Pass on 09.07.1995 by the Contractor, M/s Blue Star. At the cost of repetition, even if the Gate Passes are taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractor, M/s Blue Star and M/s Palani Enterprises with intermittent gap from 1995 to 1999 which clearly shows the Petitioner did not work continuously for that period even with the Contractors.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 29.10.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made

by the Contractors, M/s Blue Star, M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period. Apart from that, Ext.M16 to Ext.M17 undoubtedly speaks about the fact of engagement of the Petitioner and Others by the Contractor as much as these documents disclose the individual payment of the remuneration / wage in respect of the Petitioner and Other Petitioners of the batch case. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES vide Ext.M14 and Ext.M15. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. .

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 01.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P.T. Jagadeesh Kumar

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1995-1999	Gate Passes
Ext.W2	1997-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive

		Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1375.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री वी. धरणी, कामगार, के बीच अनुबंध में निर्दिष्ट

केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 308/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/47/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1375.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 308/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri V.Dharani, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/47/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 308/2001

Present: DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

Date: 20.07.2023

Sri V.Dharani

S/o M. Varadha Pillai

No. 4/749 “A”, 2nd Street

Agan Nagar

Palanipet

Arakkonam-631002

:

1st Party/Petitioner

Vs.

1. The Management

Military Engineering Services

(Rep. by its Garrison Engineer)

INS Rajali

Arakkonam-631002

2. The Commanding Officer

INS Rajaji, Naval Air Station

Camp Post

Akash Ganga

Arakkonam-631002

:

2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

:

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012 47/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh.V. Dharani who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2 A little reference to the backdrop of the case needs mention that the present dispute in ID 308/2001 and further 14 nos. of ID cases were disposed of by this Tribunal vide a Common Award dtd. 26.04.2016 directing the Respondent to reinstate all 15 Petitioners but denied the relief of backwages as sought for. The Respondents in turn moved the Hon’ble High Court of Madras challenging the Award as not an effective order since passed Ex-parte without being hearing the Respondents. All 15 Petitioners who were denied the backwages vide the Award of the Tribunal alongwith 15 more Petitioners of the batch ID cases (in toto 30) moved the Hon’ble High Court of Madras in separate Writ Petitions seeking relief of reinstatement and backwages. The Hon’ble Court disposed of all 30 individual Writ Petitions (including the above 15 Petitions arising out of the Award) and the Writ Petitions preferred by the Respondents vide a Common Order dtd 18.09.2017 by setting aside the Common Award of the Tribunal dtd. 26.04.2016 and remanded back the case for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. Both parties entered appearance and filed Additional Claim Statement and Additional Counter Statement.

3 The Petitioner’s case in a nutshell is that he joined the Respondent on 04.04.1994 as DG Operator through Contractor and continued to work even when there was change of Contractors. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act thereby the Contract and Contractor are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract-Labor only for the obvious purpose to deprive the Petitioner and others from their legitimate entitlements. Though these Petitioners were engaged and performed their duties at par with Permanent Staff, were never paid the same remuneration / salary as of them. The Petitioner was paid with only the monthly salary without any other benefits. His last pay drawn pay was Rs. 875/- per month. The Petitioner alongwith others (hereinafter be referred as “Petitioners of the ID Batch Cases”) joined in “Socialist Workers Union” and the said Union placed “Charter of Demands dtd 16.08.1999” before the Respondents regarding confirmation and wage revision at par with the Permanent Staffs. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner to fix the wages at par with Permanent Employees, The Petitioner and all other Co-Worker (other Petitioners of Batch cases) even sent letters to their respective Contractors and at the same time they moved the Grade Officers I and II of the Principal Employer to pay the full salary as per their entitlements. The Respondent did not pay a heed to their such request. Their Written Representations were not even received. The Petitioner alongwith Other Petitioners of the Batch cases raised dispute before Conciliation Officer on 22.09.1999 to fix the wages at par with Permanent employees. But surprisingly, even pending disposal of the dispute before the Conciliation Officer, the Respondent terminated the Petitioner alongwith Co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The Petitioner and Other Petitioners in the batch case requested the Respondent through the Union to reinstate him, but his such request was also turned-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wages, continuity of service and all other attendant benefits.

4. Both the Respondents 1 and 2 entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the Petitioner and Other Petitioners in the batch case at any point of time. It is further pleaded that the Respondent being a Defence Organization carrying out all works for all three Wings i.e. Army, Navy and Air Force through the Contractors of the respective empanelled Firms/Companies of the Department of MES. All such Contractors are engaged with the approval of the Competent Authority, the Engineer-in-Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, V. Dharani while examined himself as WW1 and relied on 2 documents i.e. (i) A series of extracts of Attendance Register for the month of August 1998 to June 1999 (ii) Extracts of Duty Roster Chart for the period from 10/98 to 12/99 marked as Ext W1 and Ext.W2. The Respondent examined Sri S. Jagannathan the Assistant Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13.

6. The pleadings of both parties, emerges the following issues for determination:

- (i) Whether there exists any relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) and of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

7. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion.

The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between them and termination from job on 02.02.2000 amounts to retrenchment.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 04.04.1994 as DG Operator and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official joined the different sections. The Petitioner himself joined initially at Sick Bay Sub-Station-I and then ATC site. Within a year he was designated as Operator-cum-Electrician alongwith another Co-Worker viz. Uma Shankar. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents at not under the Contractor as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition Act). The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

8. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

9. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (4 Sheets, Page 342 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. The name of the present Petitioner appears in these sheets. Ext.M9 (Page 347 to 380) shows payment made to Contractor by the Respondent for the Period 1997-1998. Ext.M10 (Page 387) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 (Page 402 to 429) is the payment of Rs. 1,33,000/- made by the Respondent, the MES to the Contractor, M/s R.D. Enterprises for the year 1999-2000 and contains series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of

remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

10. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 04.04.1994 but the documents relied by the Petitioner under Ext.W1 and Ext.W2 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999. Similarly the extract of the Duty Roster was for the months October 1998 to December 1999. It clearly shows that the Petitioner has no document showing his engagement with the Respondent from 04.04.1994. But, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements which was never pleaded either in the original Claim Statement though signed on 21.08.2002 but filed in Tribunal on 6th September as per the Court seal affixed on it or in the Additional Claim statement which was filed on 04.6.2019 only after the case was remanded for fresh hearing. That the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner joined on 04.04.1994 in Indian Naval Service, Military Engineering Service, In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the WW1 cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 04.04.1994, directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondent.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner alongwith Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 6 of Ext.M8 showing payment of Rs. 2,550/- in the month of September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if the Petitioner has relied on the Attendance Register and Muster Roll under Ext.W1 and Ext.W2 will in no way suffice to prove that the Petitioner and Others were engaged directly under the Respondent for the relevant period 1998 to 1999 and 99 -2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors, Thus, it is well evident that the Contractor engaged the Petitioner and Others. In that case, in order to redress any of their grievance, the Petitioner alongwith Others were at liberty to approach their respective Contractors.

Accordingly, it is held there exists no Employer-Employee relationship in between the Petitioner and the Respondents. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by Respondents. Thus no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID Stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 20.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri V. Dharani

For the Respondents : MW1, Sri S. Jagannathan A.G.E.(E/M) Manager (HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	August 1998-June1999 June 1999	A series of extracts of Attendance Register
Ext.W2	Oct. 1998-Dec.1999	Extracts of Duty Roster Chart

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997	Must role of labour duly approved by the department

	to	
	14.08.1997	
Ext.M8	15.07.1997	Payment made by the Contractor to employees
	to	(Petitioner) Countersigned by Department
	14.08.1997	
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the
		Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding
		hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of
		labour for the subject work. C.A. No.
		CWE/NAS/ARK/08 of 1999 to 2000 alongwith
		educational qualification of the individuals for
		approval of the department
Ext.M12	01.08.1999	Payment made by the Contractor to his employees
	to	(Petitioner) Countersigned by Department
	14.09.1999	
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour
		(Petitioner) on the Contractor requesting department
		to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1376.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री एस .उमाशंकर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 315/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/40/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1376.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 315/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri S. Umashankar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/40/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI
ID 315/2001

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 21.07.2023

Sri S. Umashankar

S/o T.C. Shanmugham

No. 24, 16th Cross Street

Thiruvalluvar Nagar

Kodungaiyur

Chennai-600018

:

1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Rep. by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631005

:

2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

:

Advocate, Sri R. Kumar

A W A R D

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/40/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. S. Umashankar who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners, alongwith the Writ Petition preferred by the Respondents, vide a common order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal(in respect of all 30 petitioners) ,with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court, for fresh trial. Add Counter statement was also filed.

3. The Petitioner’s case in nutshell is that, he joined the Respondent on 03.05.1992 as DG Operator through Contractor, and continued to work even often when there was change of contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not by the Contractors. The Petitioner’s Continued to work for eight years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and

Abolition) Act. thereby the Contractor and Contract are sham and nominal . The Respondent played unfair labor practice by terming the Petitioner as contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “ Charter of Demands dtd 16.08.1999” before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labor Commissioner to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request . Their written Representations were not even received. The Petitioner along with others raised dispute before Conciliation Officer. Even pending disposal of the dispute before the Conciliation Officer. Pending disposal of matter before the Conciliation Officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without notice or notice Pay. The petitioner requested the Respondent through the Union to re instate him, but his such request was also turn-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wing i.e, Army, Navy and Air Force through the contractors of the respective en -paneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, R. Ramesh while examined himself as WW1, relied on 3 documents marked as (i) Gate Pass July 1996 to Feb. 2000 (ii) Attendance Register for the period from 08/1998 to 06/1999 (iii) Duty roster chart for the period from 10/98 to 12/99. The Respondent examined Sh S. Jagannathan the Asst Garrison Engineer (E/M) Manager (HR), as MW1 . Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

7. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion.

The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between them and termination from job on 02.02.2000 amounts to retrenchment.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.06.1994 as DG Operator and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition Act). The Petitioner was continuing as such for six years and paid with only the basic salary and without any other

benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

8. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

9. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Others. The Petitioner's name appear as against S.No. 1 for an amount of Rs. 2,850/-. These sheets are signed by the Contractor and countersigned by the Department. Ext.M9 (Page 347 to 380) shows payment made to Contractor by the Respondent for the Period 1997-1998. Ext.M10 (Page 387) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 (Page 402 to 429) is the payment of Rs. 1,33,000/- made by the Respondent, the MES to the Contractor, M/s R.D. Enterprises for the year 05.08.1999 to 14.10.1999 and contains series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 5th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

10. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on but the documents relied by the Petitioner under Ext.W1, Ext.W2 and Ext.W3, are the Gate Passes for the period from 01.07.1996 to Feb. 2000, Attendance Register for the period from 1998 to 1999 and Duty Roster from 1998-1999. The name of the Contractor, M/s T.N.R. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was directly employed by the Contractor, M/s T.N.R. Enterprise from the date of issuance of Gate Pass i.e. from 01.07.1996. The Petitioner fails to produce a single scrap of document, if at all he was ever employed by the Respondent on 03.05.1992 and continued upto the issuance of the Gate Pass.

11. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 17th September as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.06.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

12. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 1 in Ext.M8 showing payment of Rs. 2,850/- in the month of August-September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if except Ext.W1 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W2 and Ext.W3 i.e. the Attendance Register and Duty Roster, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held there exists no Employer-Employee relationship in between the Petitioner and the Respondents. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by Respondents. Thus no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 21.07.2023)

Witnesses Examined:

For the 1 st Party/Petitioner	: WW1, Sri S. Umashankar
For the Respondents	: MW1, Sri S. Jagannathan A.G.E.(E/M) Manager (HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	July, 1996 to Feb. 2000	Gate Passes

Ext.W2	Aug. 1998-1999	Attendance Register
Ext.W3	Oct. 1998-Dec.1999	Duty Roster Chart

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997 to 14.08.1997	Must role of labour duly approved by the department
Ext.M8	15.07.1997 to 14.08.1997	Payment made by the Contractor to employees (Petitioner) Countersigned by Department
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of labour for the subject work. C.A. No. CWE/NAS/ARK/08 of 1999 to 2000 alongwith educational qualification of the individuals for approval of the department
Ext.M12	01.08.1999 to 14.09.1999	Payment made by the Contractor to his employees (Petitioner) Countersigned by Department
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1377.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरिसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री ए. चन्द्रशेखरन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 325/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/30/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1377.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 325/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A. Chandrasekaran, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/30/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI****ID 325/2001****Present: DIPTI MOHAPATRA, LL.M.****PRESIDING OFFICER****Date: 25.07.2023**

Sri A. Chandrasekaran

No. 13/62A, Maniakara Street

Perumoochi Village & Post

Arakkonam-631002

:

1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Rep. by its Garrison Engineer

Military Engineering Service

INS Rajali,

Arakkonam-631006

:

2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents :

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-14012/30/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A. Chandrasekaran who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners, along with the Writ Petition preferred by the Respondents, vide a common order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 01.08.1996 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner's continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labor Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turn-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e., Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A. Chandrasekaran while examined himself as WW1, relied on 4 documents marked as (i) 2 nos. of Gate Passes from Feb 99 to Aug 99 (ii) Nov 99 to Feb 2000 (iii) Series of extract of Attendance Register from Aug 98 to June 99 (iv) Extracts of Duty Roster Chart for the period from 10/98 to 12/99 marked as Ext.W1 to Ext.W4. The Respondent examined Sh S. Jagannathan, the Asst Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 01.08.1996 as DG Operator and working continuously for 4 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. The name of the present Petitioner appears in these sheets. Ext.M9 (Page 347 to 380) shows payment of Rs1,31,500 made to Contractor TNR Enterprises by the Respondent (page351) for the Period 1997-1998. Ext.M10 (Page 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 contains a series of documents from Page 402 to 429. Payment of Rs. 1,33,000/- was made by the Respondent, (page406) the MES to the Contractor, M/s R.D. Enterprises for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.08.1996 but the documents relied by the Petitioner under Ext.W3 and Ext.W4 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999. Similarly the extract of the Duty Roster was for the months October 1998 to December 1999. Ext.W1 and Ext.W2 contains two Gate Passes for short spell of period that is from Feb 99, May 99, Aug 99. The name of the Contractor, M/s T.N.R. Enterprises appear against the relevant column meant for the Name of the Employer. Similarly, M/s R.D. Enterprises issued the Gate Pass under Ext.W2 for the period from Nov 2000 till Feb 2000. It clearly shows that the Petitioner was directly employed by the Contractors. The Petitioner fails to produce a single scrap of document, if at all he was ever employed by the Respondents on 01.08.1996 and continued upto the issuance of the Gate Pass on Feb 99 (Ext W1).

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.08.1998. directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 24 as Operator in Ext.M8 showing payment of Rs. 2,550/- in the month of September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent (Page No. 351). On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000 and was paid Rs. 1,33,000/- (Page No. 406) for the work done. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if except Ext.W1 & Ext.W2 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W3 and Ext.W4 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees as their request was turned down by their Contractors. Thus, the documents as discussed above clearly discloses that they were not directly employed by the Respondents but they are at liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02 2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 25.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A. Chandrasekaran

For the Respondents : MW1, Sri S. Jagannathan A.G.E.(E/M) Manager
(HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	Feb. 99 – Aug 99	Gate Pass
Ext.W2	Nov. 99 – Feb.2000	Gate Pass
Ext.W3	Aug. 98-June 99	Series of extract of Attendance Register
Ext.W4	10/98 to 12/99	Extract of Duty Roster Chart

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
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Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for

		approval of the department
Ext.M7	15.07.1997	Must role of labour duly approved by the department
	to	
	14.08.1997	
Ext.M8	15.07.1997	Payment made by the Contractor to employees
	to	(Petitioner) Countersigned by Department
	14.08.1997	
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		Department (1 st RAR)
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		hike in Minimum fair wages letter
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		labour for the subject work. C.A. No.
		CWE/NAS/ARK/08 of 1999 to 2000 alongwith
		educational qualification of the individuals for
		approval of the department
Ext.M12	01.08.1999	Payment made by the Contractor to his employees
	to	(Petitioner) Countersigned by Department
	14.09.1999	
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour
		(Petitioner) on the Contractor requesting department
		to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1378.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबंध में नियोजकों और श्री ए. विक्टर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 326/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/29/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1378.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 326/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A. Victor, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/29/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI
ID 326/2001

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 25.07.2023

Sri A. Victor

S/o S. Arjunan

C/o T. Fennwalter

161, Thambuchetty Street, 2nd Floor

Chennai-600001

Address as per Addl. Claim Statement

A. Victor

No. 46/390, New Quarters

Perumuchi (Village & Post)

Arakkonam Taluk

Vellore District-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Rep. by its Garrison Engineer

Military Engineering Service

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents :

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/29/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A. Victor who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd

18.09.2017 and remanded back the case by setting aside the Common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 01.08.1996 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner's continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff.. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labor Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turn-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer-Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A. Victor while examined himself as WW1, relied on 4 documents marked as (i) Gate Pass for the period from 1998 to 1999 (ii) Gate Pass for the period 1999 to 2000 (iii) Series of extracts of Attendance Register for the period from Aug. 1998 to June 1999 and (iv) Series of extracts of Duty Roster for the period from Oct. 1998 to Dec. 1999. The Respondent examined Sh S. Jagannathan, the Asst Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-

Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 01.08.1996 as DG Operator and working continuously for 4 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. The name of the present Petitioner appears at S.No. 13 in Ext.M8 regarding payment of Rs. 2,550/- in the month of September, 1997. Ext.M9 (Page 347 to 380) shows payment of Rs. 1,31,500/- made to Contractor, M/s T.N.R. Enterprises by the Respondent for the Period 1997-1998 (Page No. 351). Ext.M10 (Page 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 contains a series of documents from Page 402 to 429 including payment of Rs. 1,33,000/- was made by the Respondent (Page No. 406), the MES to the Contractor, M/s R.D. Enterprises for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 01.08.1996 but the documents relied Ext.W3 & Ext.W4 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999 and extract of the Duty Roster was for the months October 1998 to December 1999. Ext.W1 and Ext.W2

contains two Gate Passes for the period May 1998 to August 1999 issued by M/s T.N.R. Enterprises and Nov. 1999 to February, 2000 by M/s R.D. Enterprises. The name of the Contractor, M/s T.N.R. Enterprises and M/s R.D. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was directly employed by the Contractors, M/s T.N.R. Enterprises as per the Gate Pass issued on May 1998. The Petitioner fails to produce a single scrap of document, if at all he was ever employed by the Respondent on 01.08.1996 till and continued upto the issuance of the Gate Pass.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 01.08.1996 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 13 as DG Helper in Ext.M8 showing payment of Rs. 2,550/- in the month of September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 and Ext.M12 reveals that an amount of Rs. 1,31,500/- and Rs. 1,33,000/- being the estimated dues paid to the respective Contractors, M/s T.N.R. Enterprises and M/s R.D. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, even if except Ext.W3 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W1 and Ext.W2 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees.

In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 25.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A. Victor

For the Respondents : MW1, Sri S. Jagannathan A.G.E.(E/M) Manager (HR)

Documents Marked:**On the Petitioner's side.**

Ext.No.	Date	Description
Ext.W1	1998–1999	Gate Pass
Ext.W2	1999–2000	Gate Pass
Ext.W3	Aug. 98-June 99	Series of extracts of Attendance Register
Ext.W4	10/1998 to 12/1999	Series of extracts of Duty Roster Chart

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam

Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997 to 14.08.1997	Must role of labour duly approved by the department
Ext.M8	15.07.1997 to 14.08.1997	Payment made by the Contractor to employees (Petitioner) Countersigned by Department
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of labour for the subject work. C.A. No. CWE/NAS/ARK/08 of 1999 to 2000 alongwith educational qualification of the individuals for approval of the department
Ext.M12	01.08.1999 to 14.09.1999	Payment made by the Contractor to his employees (Petitioner) Countersigned by Department
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1379.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री वी. ढांडापानी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 374/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14011/40/2000-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1379.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 374/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation The

The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri V. Dhandapani, Worker, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14011/40/2000-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 374/2001

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 04.08.2023

Sri V. Dhandapani

C/o T. Fennwalter

161, Thambuchetty Street, 2nd Floor

Chennai-600001

Address as per Additional Claim

Statement

Sri V. Dhandapani

S/o Vishvanathan

No. 19/21, 1st Street

A.N. Kandigai, Palanipet

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631002

2. The Commanding Officer

Rajali, Naval Air Station

Camp Post, Akash Ganga

Arakkonam-631002

: 2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14011/40/2000/IR(DU) dtd 27.12.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. V. Dhandapani who has been engaged through Palani Enterprises for operation and maintenance of DG Sets w.e.f. 19.11.1999 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon'ble Court of High Court of Madras. The Hon'ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 17.08.1993 as AC Operator through Contractor and continued to work even often when there was change of Contractors. The nature of duties performed by the Petitioner is operating and maintaining the AC which is same work carried out by the Permanent employees of the Principal Employer. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner continued to work for more than seven years under the direct supervision of Respondent. The Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 19.11.1999 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed Common Counter Statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. These Contractors provide service according to the need of the Department by engaging employees temporarily but not permanently. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted to have worked under the Contractors who had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer-Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, V. Dhandapani while examined himself as WW1, relied on only 1 document marked as Ext.W1 – Four Gate passes, one Gate Pass for the period from 16.11.1993 to 28.08.1994 issued by M/s IEC (Madras), and the 2nd, 3rd and 4th Gate Passes are issued by M/s Blue Star for three spells i.e. 01/1995 to 04/1995, for only one month i.e. 07/1995 and the fourth Gate Pass was for 12/1995 to 10/1996. The Respondent examined two Witnesses viz. Sh R. Uma Shankar, the Asst Garrison Engineer (Contract) (M), NAS Rajali, Arakkonam as MW1 and Sri K. Ramkumar, AGE (E/M) as MW2. Seventeen documents were produced and marked as Ext.M1 to Ext. M17.

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 17.08.1993 as AC Operator and working continuously for more than 6 years till his illegal termination on 19.11.1999. It is further stated that he himself and the Other Petitioners of the batch case faced interview and submitted their Bio-Data. Two-Three persons of the Department asked some technical questions to the Petitioner and Others and made them wait throughout the day and finally informed him and Others to report the next day. As per the direction of the competent official, the Petitioner and Others went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. They were working under the direct control of MES Officers viz. Grade I and Grade II and CWE, GE etc. The Petitioner was working at ATH, ATC, WTS, RAIO and LRMR to the best of his ability. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for more than six years and paid with only the basic salary and without any other benefits. Even though their job was of perennial in nature. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 19.11.1999 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through two of its Witnesses, Sri R. Uma Sankar, Assistant Garrison Engineer (Contract) (M) NAS Rajali. and K Ramkumar, Assistant Garrison Engineer (E/M). In support of the pleadings in the Counter Statement both of them adduced evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. The Contractors are engaged with due approval of the Competent Authority of the Department. There is no direct relationship in between the Respondents and Petitioner and Petitioners in the batch case.

8. During the course of his examination, attention was drawn to the documents relied by the Respondent. Ext.M1 & Ext.M2 (Page 1 & 3) are the contracts executed in between the Contractor, M/s Blue Star Ltd. Enterprises with Respondents. Ext.M3 & Ext.M4 are the contract agreements in between the Contractor M/s Industrial Engineering Corporation (IEC) (Madras), Ext.M5 is the contract agreement between M/s Palani Enterprises with the Respondents, the MES for successive years commencing from 1994 to 1998. The document, Ext.M6 to Ext.M10 are the Work Orders issued to respective Contractors. Ext.M11 is the correspondence made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) declaring the name of the employees including the name of the Petitioner. Similarly, Ext.M12 and Ext.M13 are such letters issued by M/s Palani Enterprises to the Respondent declaring the enlisted name of the employees including the name of the Petitioner. Ext.M14 and Ext.M15 are the RAR (Running Account Receipt) Payment made by the MES, the Respondent in favour of the respective Contractors viz. M/s Industrial Engineering Corporation (IEC) (Madras) and M/s Palani Enterprises, Arakkonam towards payment for the work done. Ext.M16 is the payment made by the Contractor, M/s Industrial Engineering Corporation (IEC) (Madras) to the Petitioner and Others for the period 19.11.1997 to 18.12.1997. Ext.M17 speaks about the payment made by the said Contractors towards its employees for the period from 19.12.1998 to 18.01.1999. The documents under both the above exhibits are signed by the respective Contractors and countersigned by the Official of the Respondent. It is stated by MW2 that all the relevant documents including the Attendance and Muster Roll were maintained by the Department. Those are signed by the respective Contractors and the Official of the Department in token of verification.

9. The Counsels for both the parties advanced argument in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 17.08.1993 but no document has been filed by him. But Ext.W1 contains four Gate Passes. The Contractors name, M/s IEC (Madras) and M/s Blue Star Ltd. appear on Gate Passes as against the column meant for Employer's name. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the above named Contractors. The only document viz. the Gate Passes will in no way substantiate the claim of the Petitioner that he was directly employed under the Respondents. MW2 while corroborates the facts stated by MW1 categorically states that all the relevant documents including the Attendance Registers, Duty Roster and Muster Roll are usually signed by the respective Contractor and Countersigned by the Department in token of verification. The Petitioner cannot take any undue advantage of such

signatures of the Departmental Officials. It reveals from Ext.M14 to Ext.M17 that the Contractors were paid with the estimated expenditure, borne by them and they used to disburse the same to the employees. On a combined reading and perusal of the documents filed by the Petitioner under Ext.W1 (Four Gate Passes), Ext.W2, the extract of Attendance Register alongwith the documents relied by the Respondent under Ext.M14 to Ext.M17 undoubtedly makes a clear cut picture that the Petitioner was directly engaged by above-named Contractors for different spells of time and also paid by them. Besides, so far his claim of joining the Respondent on 17.08.1993 is not also supported with any document. Not a single scrap of document is also furnished by the Petitioner to show his continuity in job from the date of so-claimed joining till his termination on 19.11.1999. At the cost of repetition, even if the Gate Passes is taken into consideration, it is found that the Petitioner worked for a short spell of time under the Contractors, M/s IEC (Madras) and M/s Blue Star Ltd. from 1993 to 1996 with intermittent gaps. The above fact as discussed clearly shows the Petitioner engaged only by the respective Contractors and not by the Respondent at any point of time.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 17.08.1993 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents under Ext.M14 to Ext.M17 relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractors, M/s Blue Star Ltd., M/s Industrial Engineering Corporation (Madras) and M/s Palani Enterprises for the period from 1994 to 1998 respectively and the related Work Orders were accordingly issued in their favour for the relevant period and the employees including the Petitioner and the Petitioners of the batch case have been paid adequately for their engagement by the respective Contractors. In the instant case, the Petitioner is found to have been engaged and was paid adequately by the respective Contractor vide Ext.M16 and Ext.M17. As such, it is well evident that the Petitioner and the Petitioners of the batch case have never been engaged by the Respondent. Besides, not a single document is placed by the Petitioner to show that at any point of time if he and Other Petitioners in the Batch Case were under the direct control and supervision of the Respondents or paid by them. In such circumstance, if at all the Petitioner and Other Petitioners of the batch case, if have got any grievance, they are at liberty to approach the respective Contractors for redressal.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 19.11.1999. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 19.11.1999 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 04.08.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri V. Dhandapani

For the Respondents : MW1, Sri R. Uma Sankar, A.G.E.(Contract) (M) NAS,
Rajali Arakkonam
MW2 Sri K. Ramkumar Asst Garrison Engr. (E/M)

Documents Marked:**On the Petitioner's side.**

Ext.No.	Date	Description
Ex.W1	1993-1996	Gate Passes

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	14.06.1994	Contract Agreement C.A.No.CWE (P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam.
Ex.M2	24.07.1995	Contract Agreement C.A.No.CWE/NAS/ARK/04 of 1995-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M3	11.10.1996	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1996-1997 Operation and Comprehensive of Air-Conditioning Installations at NAS Arakkonam
Ex.M4	18.10.1997	Contract Agreement C.A.No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air Conditioning Installations at NAS Arakkonam
Ex.M5	12.11.1998	Contract Agreement C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M6	18.06.1994	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/03 of 1994-1995 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M7	03.08.1995	Work Order No. 01 C.A. No. CWE(P)/NAS/ARK/04 of 195-1996 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M8	18.10.1996	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1996-1997 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam

Ex.M9	18.10.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/11 of 1997-1998 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M10	18.11.1998	Work Order No. 01 C.A. No. CWE/NAS/ARK/17 of 1998-1999 Operation and Comprehensive Maintenance of Air-Conditioning Installations at NAS Arakkonam
Ex.M11	30.12.1997	Contractor M/s Industrial Engineering Corporation (Madras) letter declaring the Petitioner as his employee.
Ex.M12	20.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M13	25.11.1998	Contractor M/s Palani Enterprises Arakkonam letter declaring the Petitioner as his employee
Ext.M14	18.12.1997	RAR Payment made to Contractor by Respondent Department (M/s Industrial Engineering Corporation (Madras)
Ext.M15	08.02.1999	RAR Payment made to Contractor by Respondent Department (M/s Palani Enterprises Arakkonam)
Ext.M16	18.12.1997	19/11/1997 to 18/12/1997 Payment disbursed by the Contractor (M/s Industrial Engineering Corporation (Madras) to the Petitioner for the period above.
Ext.M17	18.01.1999	19/12/1998 to 18/01/1999 Payment disbursed by the Contractor (M/s Palani Enterprises Arakkonam) to the Petitioner for the period above.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1380—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबंध में नियोजकों और श्री ए. भास्कर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 334/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/21/2000-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1380.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 334/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri A. Baskar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[F. No. L-14012/21/2000-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL CHENNAI****ID 334/2001****Present: DIPTI MOHAPATRA, LL.M.****PRESIDING OFFICER****Date: 27.07.2023**

Sri A. Baskar

C/o T. Fennwalter

161, Thambuchetty Street, 2nd Floor

Chennai-600001

Address as per Additional Claim**Statement**

Sri A. Baskar

427/60, Kandigai Street

Paruthiputhur Village

Arakkonam-631002

: 1st Party/Petitioner

Vs.

1. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

2. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner

: Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

: Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/21/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. A. Baskar who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.
3. The Petitioner’s case in a nutshell is that he joined the Respondent on 16.06.1995 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation Officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.
4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.
5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, A. Baskar while examined himself as WW1, relied on 3 documents marked as (i) Gate pass from 1999-2000 (ii) Attendance Register for the month of 1998 to 1999 and (iii) Duty Roster for the month of 1998 to 1999 are marked Ext.W1 to Ext.W3. The Respondent examined Sh R. Umasankar, Asst Garrison Engineer (Contracts) (M) NAS, INS, Rajali, Arakkonam as MW1. Thirteen (17) documents were produced and marked as Ext.M1 to Ext. M17

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 16.06.1995 as DG Operator and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 297) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. The document Ext.M6 is Work Order to M/s R.D. Enterprises) (Page 298), the document Ext.M7 (Page 299 to 332) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. The document Ext.M8 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. The document Ext.M9 (Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to its employees and countersigned by the Department. The document Ext.M10 (Page 347 to 354) shows payment of Rs. 1,31,500/- made to Contractor, M/s T.N.R. Enterprises by the Respondent for the Period 1997-1998 (Page No. 351). The document Ext.M11 (Page 355 to 380) is the copy of the payment made to the Contractor, M/s T.N.R. Enterprises by the Department for Rs. 2,67,000/- (Page 359) for the work done period from 15.08.1997 to 14.09.1997. The document Ext.M12 (Page No. 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. The document Ext.M13 contains a series of documents from Page 382 to 401 regarding the educational certificates. Ext.M14 (Page 402 to 414) contains the copy of payment made to the Contractor, M/s R.D. Enterprises for an amount of Rs. 1,33,000/- made by the Respondent (Page No. 406) for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from August 1999 to Sept. 1999. Ext.M15 (Page 415 to 429) discloses name of the Petitioner at S.No. 7 and paid with Rs. 2,700/- as Operator for the month of September, 1999 by the Contractor, M/s R.D. Enterprises and

countersigned by the Department. The document Ext.M16 (Page 430 to 432) contains a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. Ext.M17 is also a forwarding letter of the complaint made by the Petitioner and Others to the Respondent for intervention. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 16.06.1995 but the documents relied is Ext.W2 and Ext.W3 are the series of extracts of the Attendance Register commencing with period from 1998 to 1999 and extract of the Duty Roster was for the period 1998 to 1999. Ext.W1 contains three Gate Passes for the period from 1997 to 1998, 1998 to 1999 by M/s TNR Enterprises and Nov. 1999 to Feb. 2000 by M/s R.D. Enterprises. The name of the Contractor, M/s T.N.R. Enterprises and M/s R.D. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was never employed by the Respondents but employed for a short spell by the Contractors, M/s T.N.R. Enterprises as per the Gate Pass issued in Sept. 1997. So far his claim of joining the Respondent on 16.06.1995 is concerned is not also supported with any document. Rather the Gate Pass issued for the period Sept. 1997 to Jan 1998 by M/s T.N.R. Enterprises and for the period from April 1998 to Dec. 1999 clearly shows that the Petitioner was directed under those Contractors for the aforesaid period and not by the Respondents.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal on 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.08.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The Petitioner's name finds place at S.No.15 as DG Operator in Ext.M15 showing payment of Rs. 2,700/- in the month of September, 1997. The Contractor, M/s RD Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M10, Ext.M11 and Ext.M14 reveals that an amount of Rs. 1,31,500/-Rs. 267,000/- and Rs. 1,33,000/- respectively being the estimated dues paid to the respective Contractors, M/s T.N.R. Enterprises and M/s R.D. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997 and by M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent, MES. As such, the Petitioner has relied on Ext W2 and Ext.W3 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees.

In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext M16 & M17 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the Issue No. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 27.07.2023)

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A. Baskar

For the Respondents : MW1, Sri S. Jagannathan A.G.E.(E/M) Mgr. (HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ex.W1	1997-2000	Gate Passes
Ext.W2	1998-1999	Attendance Register
Ext.W3	1998-1999	Duty Roster

On the Respondent's side:

Ext.No.	Date	Description
Ex.M1	19.04.1995	Contract Agreement C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M2	17.06.1996	Contract Agreement C.A.No.CWE /NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M3	20.07.1998	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M4	20.06.1997	Acceptance letter C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M5	07.07.1997	Work Order No. 01 C.A.No.CWE /NAS/ARK/06 of 1997-1998 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. T.N.R. Enterprises Arakkonam.
Ex.M6	05.08.1999	Work Order No.01 C.A.No.CWE /NAS/ARK/08 of 1999-2000 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam Name of Contractor M/s. R.D.Enterprises

Ex.M7	15.07.1997	Declaration the Contractor for appointment of labour for the subject work on S.No.4 along with educational qualification of the individuals for approval of the department.
Ex.M8	15.08.1997 to 14.09.1997	Must role of labour duty approved by the department
Ex.M9	15.08.1997 to 14.09.1997	Payment made by the Contractor to his employees (Petitioner employees) Counter signed by Deptt.
Ex.M10	16.08.1997	Copy of Payment made to the Contractor by the Department (1 st Running Account Receipt)
Ex.M11	16.09.1997	Copy of Payment made to the Contractor by the Department (2 nd Running Account Receipt)
Ex.M12	16.08.1997	Intimation of Contractor to the Department reg. hike in Minimum fair Wages letter
Ex.M13	01.09.1999	Declaration of the contractor for appointment of labour for the subject work C.A. No. CWE/NAS/Ark/08 of 1999 to 2000 along with educational qualification of the individuals for approval of the deptt. - M/s. RD Enterprises
Ex.M14	22.10.1999	Copy of payment made to the Contractor by the Department C.A. No.CWE/NAS/ARK/08 of 1999 to 2000 (1 st Running Account Receipt) M/s. RD Enterprises
Ex.M15	01.08.1999 to 14.09.1999	Payment made by the Contractor M/s. RD Enterprises to his employees (Petitioner) Counter signed by Department.
Ex.M16	18.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises
Ex.M17	04.02.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment from M/s. RD Enterprises through INS Rajali Arakkonam.

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1381.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडिंग ऑफिसर, राजली, नेवल एयर स्टेशन, अराकोणम, गैरीसन इंजीनियर मिलिट्री इंजीनियरिंग सर्विसेज, आईएनएस राजली, अराकोणम, के प्रबंधन के संबंध में नियोजकों और श्री एस. इब्राहिम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट(संदर्भ संख्या 335/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -14012/20/2000-आईआर(डीयू)]

डी. के.हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1381.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 335/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Commanding Officer, Rajali, Naval Air Station, Arakkonam, The Garrison Engineer Military Engineering Services, INS Rajali, Arakkonam, and Shri S. Ibrahim, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-14012/20/2000-IR (DU)]

D. K.HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI****ID 335/2001****Present: DIPTI MOHAPATRA, LL.M.****PRESIDING OFFICER****Date: 27.07.2023**

Sri S. Ibrahim

C/o T. Fennwalter

161, Thambuchetty Street, 2nd Floor

Chennai-600001

Address as per Additional Claim**Statement**

S/o Shaik Dawood

No. 51, Mubarak Nagar

3rd Street

Krishnam Pettai, Palanipet

Arakkonam-631002

: 1st Party/Petitioner

Vs.

3. The Commanding Officer

Rajali, Naval Air Station

Camp Post

Arakkonam-631006

4. The Management

Represented by its Garrison Engineer

Military Engineering Services

INS Rajali

Arakkonam-631006

: 2nd Party/Respondents**Appearance:**For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents :

Advocate, Sri R. Kumar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012/20/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. S. Ibrahim who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

3. A little reference to the backdrop of the case needs mention that the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30

Petitioners along with the Writ Petition preferred by the Respondents vide a Common Order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon'ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon'ble Court for fresh trial. Additional Counter Statement was also filed.

3. The Petitioner's case in a nutshell is that he joined the Respondent on 02.04.1992 as DG Helper through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner's continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as Contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in "Socialist Workers Union" which placed certain "Charter of Demands dtd 16.08.1999" before the Respondent regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management. The dispute was raised before the Labour Commissioner on 22.09.1999 to fix the wages at par with Permanent Employees. The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation Officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turned down. The termination without notice attracts 25(f) & (n) of the ID Act

Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits.

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer-Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, S. Ibrahim while examined himself as WW1, produced no documents. The Respondent examined Sh R. Umasankar, Asst Garrison Engineer (Contracts) (M) NAS, INS, Rajali, Arakkonam as MW1. Fifteen (15) documents were produced and marked as Ext.M1 to Ext. M15

The following issues emerge in the pleadings of the parties:

- (I) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (II) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (III) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 02.04.1992 as DG Helper and working continuously for 8 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has

been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M3 (Page 1 to 294) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1998. The document Ext.M4 is the Acceptance Letter of the Department (MES) with regard to the tender to undertake maintenance work by M/s T.N.R Enterprises (Page 295). Ext.M5 is the Work Order of M/s T.N.R. Enterprises (Page 296). Ext.M6 is the Muster Roll (Page 297 to 304). Ext.M7 is the Work Order to M/s T.N.R. Enterprises (Page 305). Ext.M8 is the Work Order to the said Contractor (Page 306). Ext.M9 is the Muster Roll for the period from June 1995 to July 1995 (Page 307 to 320). Ext.M10 is the payment made to the Contractor (Page not legible). Ext.M11 is the Muster Roll for the month of September 1995 to October 1995 (Page 323 to 329). Ext.M12 is the payment made to the Contractor (Page 330 to 336). Ext.M13 is the Muster Roll for the period from Oct. 1995 to Nov. 1995 (Page 337 to 353). Ext.M14 is the Muster Roll for the period from Nov. to Dec. 1995 (Page 354 to 370). Ext.M15 is the Chief Engineer's approval for contract of Operation & Maintenance (Page 371). MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the oral evidence adduced by both the parties, it reveals that the Petitioner fails to produce a single scrap of document in support of his claim of joining on 02.04.1992 so also his so-called termination on 02.02.2000.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement filed before this Tribunal on 15.02.2001 (as per the Court seal affixed on it) or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing. During the course of Examination-in-Chief, the Petitioner filed no documents on his behalf but filed the Affidavit-Evidence introducing statement that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself.

In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement and not supported with any document. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 02.04.1992 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents from his claim of date of joining till termination.

11. On the contrary the documents relied by the Respondent under Ext.M1 to Ext.M3 which are vividly discussed in preceding paragraphs gives a clear-cut picture that the Contractors viz. M/s T.N.R. Enterprises and M/s R.D. Enterprises were engaged as per the agreement executed in between them to carry out Operation and Maintenance works. In such circumstance, despite of no document filed on behalf of the Petitioner, if at all for the sake of argument

it is accepted that the Petitioner was engaged for some time prior to his termination dtd. 02.02.2000, it must be under the aforesaid Contractors. In that circumstance, if any grievance was to be redressed, it should be by the Contractors. Of course, the Petitioner also failed to produce any Gate Passes, if issued by any of the Contractors or any remuneration was received from them. Accordingly, it is well evident that he has never worked under the Respondents even not under the Contractors. It is simply a concocted case for the obvious purpose.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and
corrected and pronounced in the open
court on this day the 27.07.2023)

Witnesses Examined:

For 1st Party/Petitioner : WW1, Sri S. Ibrahim

For the Respondents : MW1, Sri S. R. Umashankar, A.G.E.(E/M) Mgr. (HR)

Documents Marked:-

On the petitioners side

Ex.No.	Date	Description
-----Nil-----		

On the Respondent side

Ex.No.	Date	Description
Ex.M1	19.04.1995	Contract Agreement C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam.
Ex.M2	17.06.1996	Contract Agreement C.A.No.CWE /NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam .
Ex.M3	20.07.1998	Contract Agreement C.A.No.CWE /NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M4	30.03.1994	Acceptance letter C.A.No.CWE (P)/NAS/ARK/18 of 1993-1994 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M5	30.03.1994	Work Order No.01 C.A.No.CWE /NAS/ARK/18 of 1993-1994 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M6	Nov 1994	Must role of labour duly approved by the department for the month Nov 1994

Ex.M7	13.05.1995	Acceptance letter C.A.No.CWE (P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M8	15.05.1995	Work Order No.01 C.A.No.CWE /NAS/ARK/02 of 1995-1996 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam.
Ex.M9	15.06.1995 to 14.07.1995	Must role of labour duly approved by the department for the month Jun-Jul 1995 & Payment made by the Contractor to employees (Petitioner) Counter Signed by Department
Ex.M10	July 1995	Copy of Payment made to the Contractor by the Department (RAR).
Ex.M11	15.09.1995 to 14.10.1995	Must role labour duly approved by the department for the month Sep to Oct 1995
Ex.M12	15.09.1995 to 14.10.1995	Payment made by the Contractor to employees (Petitioner) Counter Signed by the Department.
Ex.M13	15.10.1995 to 14.11.1995	Muster Roll labour duly approved by the department for the month Oct to Nov 1995
Ex.M14	15.11.1995 to 14.12.1995	Must role labour duly approved by the department for the month Nov to Dec 1995
Ex.M15	08.07.1996	HQ CE Madras Zone letter No. 40301/712/E4 dated 08 July 1996

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1382.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, बीएचईएल, त्रिची, के प्रबंधन के संबद्ध नियोजकों और महासचिव डा. बाबा साहेब एलसीएस यूनियन/बीएचईएल, थुवाकुडिमलाई पूर्व, त्रिची, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 34/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -42011/110/2022-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1382.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Director, BHEL, Trichy, and The General Secretary, Dr. Baba Saheb LCS Union/BHEL, Thuvakudimalai East, Trichy**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42011/110/2022 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI
ID No. 34/2022

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 05.07.2023

The General Secretary,
 Dr. Baba Saheb LCS Union/BHEL,
 No. 1/589, New Street, Navalpattu,
 Thuvakudimalai East
 Trichy-620 022

: 1st Party/Petitioner

AND

The Director,
 BHEL,
 Trichy – 620 014

: 2nd Party/Respondent

Appearance

For the 1st Party/Petitioner : None

For the 2nd Party/Respondent : Advocates, M/s A.V. Arun

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/110/2022 (IR(DU), dated 27.05.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

Whether dispute raised by Dr. Baba Saheb LCS Union/BHEL vide letter dated 27.09.2021 to the management of BHEL, Trichy for wage revision for BHEL Complex Cooperative Labour Contract Society is 'industrial dispute' under ID Act, 1947?

If yes, whether the demand raised by Dr. Baba Saheb LCS Union/BHEL vide letter dated 27.09.2021 to the management of BHEL, Trichy for wage revision for BHEL Complex Cooperative Labour Contract Society is proper, legal and justified? If yes, to what relief is the disputant entitled and what directions are necessary in this respect?"

2. On receipt of the above reference from the appropriate Government, the dispute is registered as ID No. 34/2022 and due notices were issued to both sides for their appearance on 02.08.2022 and some more subsequent dates till 26.09.2022, 16.11.2022 and 04.01.2023. The Petitioner did not turn up in any of the dates but the Respondent represented through its Counsel on 04.01.2023 who files his v.nama. The case is again rescheduled to 13.03.2023. The Petitioner did not turn up. The case is listed to 20.03.2023 for appearance and the Claim statement of the Petitioner. The Petitioner did not turn up, whereas the Respondent was present. However, for the interest of justice, the Petitioner is afforded with another fair chance for his appearance and also directed to file the claim statement. The case was listed to 02.05.2023. The Petitioner did not turn up. Even then without taking any adverse recourse against the Petitioner this Tribunal, Suo-moto afforded another fair chance to the Petitioner for his appearance and claim statement. The case was accordingly listed to 03.07.2023. On that day the Respondent though represented through his Counsel, neither the Petitioner nor any one of his behalf appeared before the Tribunal. No Petition for extension of time was filed by the Petitioner.

It is crystal clear that the Petitioner deliberately avoid appearance despite of several opportunities are made available to him. Due to non-participation of the Petitioner in the proceeding there was no progress in the case. The case is simply dragged to this extent without any fruitful result. The very conduct of the Petitioner gives an impression that he is not ready to proceed with the case.

3. In such circumstance, the Tribunal is not in a position to adjudicate the dispute as referred by the Appropriate Government vide dtd.27.05.2022. The case is liable for dismissal due to non-participate and default in appearance of the Petitioner. In the circumstance, it is held proper to dispose of the case without wasting the valuable time of the Tribunal.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government.

In the result the ID case stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA Presiding Officer

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1383.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, बीएचईएल, त्रिची, के प्रबंधन के संबद्ध नियोजकों और महासचिव, बीएचईएल सोसाइटी थोझिलालर विदुथलाई मुन्नानी, त्रिची, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 33/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल -42011/109/2022 -आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1383.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation The Director, BHEL, Trichy, and **The General Secretary, BHEL Society Thozhilalar Viduthalai Munnani, Trichy**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42011/109/2022 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI****ID No. 33/2022**

Present : **DIPTI MOHAPATRA, LL.M.**
PRESIDING OFFICER
Date: 05.07.2023

The General Secretary,
 BHEL Society Thozhilalar Viduthalai Munnani
 No. 338/163, Sedimalai Murugan Block
 Thuvakudimalai East
 Trichy-620 022

: 1st Party/Petitioner

AND

The Director,
 BHEL,
 Trichy – 620 014

: 2nd Party/Respondent**Appearance**For the 1st Party/Petitioner

: None

For the 2nd Party/Respondent

: Advocates, M/s A.V. Arun

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/109/2022 (IR(DU)), dated 27.05.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether dispute raised by BHEL Society Thozhilalar Viduthalai Munnani vide letter dated 28.12.2021 to the management of BHEL, Trichy for wage revision for BHEL Complex Cooperative Labour Contract Society is ‘industrial dispute’ under ID Act, 1947? If yes, whether the demand raised BHEL Society Thozhilalar Viduthalai Munnani vide letter dated 28.10.2021 to the management of BHEL, Trichy for wage revision for BHEL Complex Cooperative Labour Contract Society is proper, legal and justified? If yes, to what relief is the disputant entitled and what directions are necessary in this respect?”

2. On receipt of the above reference from the appropriate Government, the dispute is registered as ID No. 33/2022 and due notices were issued to both sides for their appearance on 02.08.2022 and some more subsequent dates till 26.09.2022, 16.11.2022 and 04.01.2023. The Petitioner did not turn up in any of the dates but the Respondent represented through its Counsel on 04.01.2023 who files his v.nama. The case is again rescheduled to 13.03.2023. The Petitioner did not turn up. The case is listed to 20.03.2023 for appearance and the Claim statement of the Petitioner. The Petitioner did not turn up, whereas the Respondent was present. However, for the interest of justice, the Petitioner is afforded with another fair chance for his appearance and also directed to file the claim statement. The case was listed to 02.05.2023. The Petitioner did not turn up. Even then without taking any adverse recourse against the Petitioner this Tribunal, Suo-moto afforded another fair chance to the Petitioner for his appearance and claim statement. The case was accordingly listed to 03.07.2023. On that day the Respondent though represented through his Counsel, neither the Petitioner nor any one of his behalf appeared before the Tribunal. No Petition for extension of time was filed by the Petitioner.

It is crystal clear that the Petitioner deliberately avoid appearance despite of several opportunities are made available to him. Due to non-participation of the Petitioner in the proceeding there was no progress in the case. The case is simply dragged to this extent without any fruitful result. The very conduct of the Petitioner gives an impression that he is not ready to proceed with the case.

3. In such circumstance, the Tribunal is not in a position to adjudicate the dispute as referred by the Appropriate Government vide dtd.27.05.2022. The case is liable for dismissal due to non-Cooperation and default in appearance of the Petitioner. In the circumstance, it is held proper to dispose of the case without wasting the valuable time of the Tribunal.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government.

In the result the ID case stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 31 अगस्त, 2023

का.आ. 1384.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, मैसर्स. टेंटैकल सिक्वोर स्क्वाड प्रा. लिमिटेड, नोलंबूर, चेन्नई; महाप्रबंधक, मैसर्स. एनएलसी इंडिया लिमिटेड, टाउनशिप प्रशासन, नेवेलीके प्रबंधतंत्र के संबद्ध नियोजकों और श्री. एस कन्नाथासन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 71/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-171-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 31st August, 2023

S.O. 1384.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Managing Director, M/s. Tentacle Seque Squads Pvt. Ltd., Nolambur, Chennai ; The General Manager, M/s. NLC India Limited, Township Administration, Neyveli, and Shri. S. Kannathasan, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42025/07/2023-171-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI
ID No. 71/2022

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 05.07.2023

Sh. S. Kannathasan,
 S/o. R. Sundaramoorthy,
 No. 225, Thoppu Street, Periyakannadi,
 Chinnakannadi Post,
 Kurinjipadi Taluk, Cuddalore,
 Tamilnadu – 607 302 : Petitioner

AND

The Managing Director,
 M/s. Tentacle Seure Squads Pvt. Ltd.,
 MIG-306, TNHB, Phase – II, 3rd Main Road,
 Nolambur, Chennai – 600 037. : Respondent-1
 The General Manager,
 M/s. NLC India Limited,
 Township Administration,
 Neyveli – 607 801.

Appearance:

For the 1st Party/Petitioner : None.
 For the 2nd Party/Respondent-1 : None.
 For the 2nd Party/Respondent-2 : Advocates, M/s N. Nithianandam.

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. 01/15/2021/PDY/Adj/A1, dated. 01.07.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the claim of Sh. Kannathasan alleging termination of employment w.e.f. 18.08.2020 by the management of Tentacle Seure Squads P Ltd (NLC Contractor) is legal and justified? If not, to what relief the workman is entitled to?”

2. On receipt of the above reference from the appropriate Government, the dispute is registered as ID No. 71/2022 and due notices were issued to both sides for their appearance on 06.10.2022 and some more subsequent dates till 16.11.2022, 04.01.2023, 13.03.2023 and 20.03.2023. the petitioner did not turn up. The Respondent R2 represented through it's counsel who files v.nama. The R1 is not present. The case is listed to 02.05.2023 for appearance and the Claim statement of the Petitioner. The Petitioner did not turn up. However, for the interest of justice, the Petitioner is afforded with another fair chance for his appearance and also directed to file the claim statement. The Petitioner did not turn up.

It is crystal clear that the Petitioner deliberately avoid appearance despite of several opportunities are made available to him. Due to non-participation of the Petitioner in the proceeding there was no progress in the case. The case is simply dragged to this extent without any fruitful result. The very conduct of the Petitioner gives an impression that he is not ready to proceed with the case.

3. In such circumstance, the Tribunal is not in a position to adjudicate the dispute as referred by the Appropriate Government vide dtd. 01.07.2022. The case is liable for dismissal due to non-cooperation and default in appearance of the Petitioner. In the circumstance, it is held proper to dispose of the case without wasting the valuable time of the Tribunal.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government.

In the result the ID case stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2023

का.आ. 1385.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुलपति, इंदिरा गांधी राष्ट्रीय मुक्त विश्वविद्यालय, इग्नू, साकेत, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री मोहित मुंबई, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर पंचाट(संदर्भ संख्या 47 of 2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 02.08.2023 को प्राप्त हुआ था।

[सं. एल -42025/07/2023-170- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 1st September, 2023

S.O. 1385.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47 of 2018) of the **Central Government Industrial Tribunal cum Labour Court –Kanpur**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Vice Chancellor, Indira Gandhi National Open University, IGNOU , Saket, New Delhi, and Shri Mohit Mubai, Worker**, which was received along with soft copy of the award by the Central Government on 02.08.2023.

[No. L-42025/07/2023-170-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT KANPUR

PRESENT: SOMA SHEKHAR JENA

HJS (Retd.)

I.D. No. 47 of 2018

BETWEEN

Mohit Mubai S/O Sant Kumar Mubai

R/O 736/406, Daraganj, Allahabad-

AND

1. The Vice Chancellor,

Indira Gandhi National Open University,

IGNOU ,Main Road, Maidan Garhi, Saket, New Delhi-110030

2. The Director, Indira Gandhi National Open University,

Gandhi Bhawan , B.H.U. Campus , Varanasi-221005

3. The Regional Director, Indira Gandhi National Open University,

Gandhi Bhawan, B.H.U. Campus , Varanasi-221005

AWARD

This award arises in respect of the case raised under section 2A of Industrial Disputes Act, 1947 on 23.05.2017. The averments submitted by the claimant workman are concisely stated as hereafter:-

On 01.02.2016 the claimant workman was appointed as skilled employee in IGNOU ,Varanasi and he was assigned duties in operation of computer. Due to illness of his mother the claimant had to proceed to his home on 26.08.2016 and his mother was admitted into the hospital and on 22.09.2016 mother of the claimant died. Immediately thereafter the father of the claimant fell ill and the claimant had to stay on leave and on 14.10.2016 the claimant reported for duty . On 14.10.2016 the Regional Director orally terminated the services of the claimant workman without justifiable reason. It is averred by the claimant workman that prior to disengagement he had continuously worked exceeding 240 days under the control and supervision of the officer of the OP side. He was paid wages which were deposited in his account directly by the OP side . It is pleaded by the claimant that the OP side has not served one month notice before termination nor had paid one month wage in lieu of notice doing blatant violation

of Section 25(F) of the I.D. Act . It is further averred that the OP side has retained the services of workers who were junior to the claimant workman in the same category transgressing the provision of 25(G) of the ID Act. It is averred by the claimant that after termination he has been rendered jobless without gainful employment and has been undergoing severe financial distress after 14.10.2016.

The averments of the OP side in the Written Statement are summarized as stated here after :-

In the written statement the OPs averred that Mohit Mubai was engaged as unskilled worker purely on daily wage and in the warehouse of IGNOU against the vacant group D post. It has been averred that Mohit Mubai had worked for 115 days. It has been pleaded that after 24 August, 2016 Mohit Mubai remained absent from his duties without any information . Later, daily wage workers were procured through manpower agency. It has been averred that the warehouses of all the Regional centres of the IGNOU have been closed with effect from 30.11.2017. In the Rejoinder it has been submitted by the claimant that Shri Rupam Chaudhary was not competent to submit the written statement.

In the rejoinder the claimant workman has reiterated his claim for reinstatement with back wages and other consequential benefits. In the rejoinder the claimant workman has refuted the averments of the OP employer that he was absent from duties without any information to the establishment. It is claimed by the claimant workman that he was working directly under the control and supervision of the OP parties and that he was directly getting wages from the OP parties. For disposal of this ID the following points are to be answered:-

1. Whether termination of Shri Mohit Mubai with effect from 14.10.2016 without issuance of notice or notice pay can be held to be illegal?
2. Whether claimant is legally entitled for reinstatement in job?
3. Whether the claimant is entitled for backwages?

All the above stated points are taken up for discussions simultaneously for convenience. It is contended by the claimant workman that he was called upon to work in IGNOU by email received from the regional director IGNOU and on 01.02.2016 and he started working in IGNOU. It is further contended by the claimant workman that he worked as C.O. implying Computer Operator cum Office Assistant with assurance that formal order of appointment shall be issued and that sometimes his wages were deposited in his account and sometimes he was paid in cash he had worked till August, 2016 and in August, 16 on the day of Janmashtami. He had submitted application for availing leave for 10 days on the ground of illness of his mother. It is further contended by the claimant workman that his attendance was recorded by the IGNOU and on 14.10.2016 the Regional Director Dr. A.N. Tripathi orally disengaged him without issuing any formal letter of termination. It is averred by the claimant that Anupam Kushwaha and Mritunjay were junior to him but the OP management following unfair labour practice retrained them in job disengaging him. From scanning of the evidence adduced before the Tribunal it is clear that except the email no formal letter of appointment issued in favour of the workman has been established. Even going through the contents of email at paper no. 45 the same cannot be equated with formal letter of appointment. Claimant in course of cross examination has admitted that he is unable to state the scale of pay on which he was engaged. IGNOU is established by the Govt. of India and it is hardly acceptable that any person can be appointed on any regular vacancy by any cryptic email communication. On the other hand it stands almost uncontroverted that Mohit Mubai was engaged as daily wage. There is no evidence that he had faced any interview for getting permanent job in IGNOU. As a matter of misfortune claimant workman lost his mother but the said tragic incidence will not confer right on the claimant workman to claim for absorption in regular post. The documents produced show that he had worked for 23 days in February, 2016, 18 days in March 2016, 15 days in April, 16, 24 days in May, 16, 19 days in June 16, 13 days in July and 3 days in August which indirectly established that Mohit Mubai was engaged on casual need based assignments for 115 days prior to his termination and as such the claimant is not protected by section 25(B) of the ID Act . The evidence adduced before the Tribunal established with the pre-ponderance of the probability that Mohit Mubai was engaged as a casual worker on daily wage.

Daily wage is not legally entitled for absorption in any permanent vacancy. In other words daily wage is not legally entitled to be absorbed in regular post of the establishment. In government controlled institutions backdoor entry is strictly prohibited even if the worker has worked for certain period. In the case law District Development Officer & Anr. v/s Satish Kantilal Amrelia pronounced by the Hon'ble Supreme Court of India reported in 2018 LLR 225 it is observed in the following words "We have taken note of one fact here that the Labour Court has also found that the termination is bad due to violation of section 25-G of the Act.

In our opinion, taking note of overall factual scenario emerging from the record of the case and having regard to the nature of the findings rendered and further the averments made in the SLP justifying the need to pass the termination order , this case does not fall in exceptional cases as observed by this court in para 35 of Bharat Sanchar Nigam Limited case (supra) due to finding of section 25-G of the Act recorded against the appellant .In other words, there are reasons to take out the case from exceptional cases contained in para 35 because we find that the appellant did not resort to any kind of unfair practice while terminating the services of the respondent. In view of forgoing discussion, we are of the considered view that it would be just, proper and reasonable to award lump sum monetary compensation to the respondent in full and final satisfaction of his claim of re-instatement and other consequential benefits by taking recourse to the power under Section 11-A of the Act and the law laid down by this court in Bharat

Sanchar Nigam Limited case (supra). The claimant Mohit Mubai is not legally entitled for reinstatement with back wages. Since he was working as daily wager his termination cannot be equated with retrenchment. In view of the epousal of law by the Hon'ble Supreme Court of India in Hari Nandan Prasad v/s The Management FCI the claimant workman being engaged on daily wage basis is not legally entitled for regularization in permanent post. Whether Mohit Mubai is entitled for back wages? There is evidence that Mohit Mubai worked for 115 days as daily wager in toto. He has claimed that many employees who were junior to him have been retained in job by OP establishment and the OP establishment violated section 25(G) of the ID Act. That apart a daily wager cannot legally claim protection under Section 25-G of the ID Act, 1947 and as such averment of the claimant workman that Section 25(G) of the ID Act has been violated carries no significance though the claimant workman claims that he had gone without gainful employment that burden has not been discharged by claimant workman by adducing adequate evidence. In such circumstances the claim of the claimant workman for back wages after the date of disengagement is unsustainable in eye of law and as such, no back wages is awarded in favour of the claimant workman. In view of the discussions stated above the whole

Reference is awarded against the claimant workman.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2023

का.आ. 1386.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स हिंदुस्तान एयरोनॉटिक्स लिमिटेड, डिटेचमेंट एयर फोर्स स्टेशन, आगरा (यू.पी.), के प्रबंधन के संबद्ध नियोजकों और श्री रामनिवास, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर पंचाट(संदर्भ संख्या 52 of 2009) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/26/2009- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 1st September, 2023

S.O. 1386.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 52 of 2009**) of the **Central Government Industrial Tribunal cum Labour Court –Kanpur**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Hindustan Aeronautics Limited, Detachment Air Force Station, Agra (U.P.), and Shri Ram Niwas, Worker**, which was received along with soft copy of the award by the Central Government on 04.08.2023.

[No. L-14012/26/2009-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT**

KANPUR

PRESENT: SOMA SHEKHAR JENA

HJS (Retd.)

I.D. No. 52 of 2009

BETWEEN

Shri Ram Niwas S/o Shri Gaya Prasad,
Village- Sauhall, PO- Pratap Pura,
Agra (U.P.)

AND

The Manager,
M/s Hindustan Aeronautics Limited, Detachment Air Force Station, Agra (U.P.)

AWARD

This Tribunal was called upon to answer the reference stated in Schedule below by the notification no. L-14012/26/2009- IR(DU) dated 30.11.2009 Issued by the Government of India.

SCHEDULE

“Whether the action of the management of Hindustan Aeronautics Ltd., Agra, in terminating the services of Shri Ram Niwas w.e.f. 26/07/2003 is legal and justified? If not, what relief the workman is entitled to ?”

The averments made by the claimant workman in the statement of claim may be summarized as stated hereinafter:

The claimant workman claims that he was appointed on the post of technician in the above stated defendant establishment on 05-05-2001 and since the said date was working continuously. The claimant workman along with other employees used to come for servicing of AN 32 aeroplane, after 1800 flying hours. The O.P. employer of the above respondent establishment suddenly deprived the claimant workman from doing work with effect from 26.7.2003 without assigning any reason, without retrenchment notice or retrenchment compensation, notice pay etc. Claimant workman claims to have worked for Twelve months in each year from the date of employment to the date of termination from service. He claims to have completed more than 240 days in a calendar year preceding his retrenchment. Since the date of termination from work, the claimant has been continuously demanding job. The O.P. employer has been continuously depriving the claimant labourer from work. Along with this, it is noteworthy that even today the junior labourers have been working. The action taken by the defendant against the claimant labour neither the establishment is covered under the Labor Act nor is the establishment under applicable standing orders. Therefore, the action adopted by the respondent party against the plaintiff worker is legally defective. From the date of his termination from work, the plaintiff worker has been going jobless.

The averments of the O.P. management in the written statement may be concisely reproduced as stated hereinafter:

The cause of action as mentioned in the matter of dispute itself goes as far back as on 26.07.2003, whereas the reference order has been issued on 30.11.2009. Thus, cause of action is delayed for 6 years. A perusal of order of reference reveals that the reference is a consequence of application filed before the A.L.C.(Central) registered as A-8(19)/2009/1055, which was itself filed by the applicant in the year 2009. The dispute was initiated and was pursued in the year 2009, although the cause of action as mentioned in the reference order goes as far back as on 26.07.2003.

The alleged dispute is more than 5 years old and thus, highly belated, which should not have been entertained. The applicant concerned raised the matter of alleged termination of his services on 26.07.2003 after sleeping over for 6 years on 20.04.2009. The reference under schedule cannot be called a valid reference in bonafide exercise of vested powers.

In the circumstances, there is not only been gross and blatant violation of law and procedure, arbitrary misuse of legal process and no application of mind had been done in referring this more than 6 years old, stale as well as legally dead matter to this Tribunal ignoring decisions of the Hon'ble Apex Court.

M/s. Hindustan Aeronautics Ltd. is a Company incorporated under the Indian Companies Act, 1956 having its Registered Office at 15/1, Cubbon Road, Bangalore. The Opp. Party is engaged in the manufacture / repair and overhauling of sophisticated Air Craft and other Defence Equipment and serves and caters the need mainly to the Defence Services of India. The company has several Divisions and Branches all over the country. The Hindustan Aeronautics Ltd., Detachment, Agra is maintaining its establishment within the premises of Air Force Station at Agra. The claimant workman was never appointed against any permanent vacancy at Hindustan Aeronautics Ltd., Detachment, Agra, but had worked purely on contract basis, which came to an end after the work was over. Hindustan Aeronautics Ltd. Detachment, Agra is dealing in the nature of maintenance and overhauling work provided by the Indian Air Force. Mostly, the Technicians are engaged on contract basis to carry out technical work on requirement basis. Since the work is of fluctuating nature, the requirement suffered Fluctuations. The claimant concerned had never worked against any permanent vacancy, but his engagement was purely on contract basis on exigencies and availability of work.

The claimant Concerned had been engaged on contract basis from time to time and was being paid wages admissible to him under law.

The claimant concerned was purely on contractual in engagement without having been recruited through the proper procedure and having not been sponsored by the Employment Exchange.

The O.P. company has its rules and regulations and the strength of the workmen of each category is decided by the company in commensurate to the needs of production. Rigid procedure has been prescribed relating to the recruitment of regular workmen, which includes the declaration of vacancies. demanding applications from the incumbents, selection through is special committee and issue of Appointment Orders in writing. It is submitted that unless an appointment is in terms of the relevant rules and after a proper competition amongst qualified persons, the same would not confer any right of appointment on any person including the applicant concerned.

In the rejoinder claimant workman has reiterated his claim.

The points to be answered in this proceeding are as follows:

1. Whether O.P. HAL and the claimant workman were on employer-employee relationship?
2. Whether termination of claimant Ram Niwas can be treated as retrenchment under section 200(b) of the ID Act, 1947.
3. To what other relief the claimant is legally entitled?

Point No. 1:

From cumulative reading of papers 10/20, 10/19, 10/21, 10/22, 10/23, 10/24 it is prima facie found that the claimant was party making agreement with HAL for doing work on contract. In all these documents it was stipulated on the claimant to provide skilled and semi-skilled labour paper no. 10/66 speaks that the work contract was awarded in favour of Ram Niwas.

Authenticity of contents of aforesaid documents has not been demolished.

It is well admitted by claimant workman Ram Niwas that no appointment letter was issued in his favour by HAL. It has been further admitted by the claimant that he was paid wages as casual worker. This deposition of the claimant workman in course of cross-examination otherwise establishes that the claimant was engaged as casual worker his deposition with regard to a nature of work done by him further establishes that his work was on need basis and not of perpetual nature. He was not appointed against any post of the HAL with issuance of gate pass in favour of a contract labour employer-employee relationship is not established. Though the claimant asserts that he was engaged technician his evidence is not clear about nature of technical work done by him. The papers filed by this claimant in support of deductions of EPF contributions cannot be read to establish that he was employee of O.P. management. Casual workers can be directed to work for particular job work under control of the authorities but that will not establish that the casual worker is entitled to be accepted as employee of the O.P. management.

It is difficult to hold that there was direct employer employee relationship between O.P. HAL & claimant.

On behalf of the claimant side the case law 1999(8) FLR has been relied.

On-going through the aforesaid case law it is evident that the factual aspects of the said case law are not similar to the factual aspects of the case in hand. The aforesaid case law may not bolster up the claim of the claimant. At the cost of repetition it may be stated here that the work done by the claimant cannot be accepted as of perennial in nature. The contract of labour of this case cannot be read as sham in nature as the claimant was engaged without any formal appointment in any post. There can be no presumption that work done by the claimant was of perennial necessity for HAL, Agra. There is no evidence that the work done by the claimant was actually perennial in nature in HAL.

In case law 2006(109) FLR 2004 Branch Manager M.P. State Agro Industries Development Corporation Ltd. and another Vs. S.C. Pandey, it has been authoritatively observed by the Hon'ble Supreme Court of India in following words:

12. Such appointments, in our opinion, having regard to the decisions in Mahendra Lal Jain (supra) and Manoj Srivastava (supra), must be made in accordance with extant rules and regulations. It is also a well settled legal position that only because a temporary employee has completed 240 days of work, he would not be entitled to be regularised in service. Otherwise also the legal position in this behalf is clear as would appear from the decision of this Court in Dhampur Sugar Mills Ltd. v. Bhola Singh,' apart from Mahendra Lal Jain (supra).

13. The Industrial Court as also the High Court applied the principles of estoppel on the finding that the respondent was transferred from Morena to Gwalior. If his appointment was void, being contrary to regulations, in our opinion, the procedural provisions like estoppel or waiver were not applicable. If an appointment made by the Branch Manager was wholly without jurisdiction, the order of appointment itself was void. Furthermore, the contention of the appellant had been that in terms of Regulation 16 of 1976 Regulations only the Managing Director of the Corporation could issue an offer of appointment. It has not been found by the Industrial Courts or the High Court that the Branch Manager and the Regional Manager were authorised to make such appointments. The appointment of the respondent, thus, must be held to have been made only to meet the exigencies of services and not in terms of the service regulations. The appointment of the respondent, thus, could not have been made for filling up a regular vacancy for the purpose of invoking Rule 2 of the Standing Orders.

In view of the above stated observations the claimant is not entitled for regularization in any post of the HAL as claimed by him.

In view of the foregoing discussions the answer to this point goes against the claimant Ram Niwas.

Point no. 2:

In view of the discussions stated above the so called termination of work issued by HAL against Ram Niwas cannot be held to be retrenchment. Once it is held that the termination cannot be saddled with any liability of retrenchment pay in lieu of notice and retrenchment compensation are dispensable. In view of discussions stated above the point is answered against the claimant Ram Niwas.

Point no. 3:

At this point of time exact compensation with mathematical exactitude appears to be unworkable. Huge amount of compensation cannot be granted as there is lack of adequate material that the claimant was rendered unemployed by the action of the O.P. employer. Compensation can be worked out by resorting to guess-work. Taking the whole scenario into consideration the claimant is entitled to get compensation of Rupees Forty Thousand to be deposited in the bank account of the claimant by the O.P. employer within 60 days from the date of publication of this award failing which the claimant will be entitled to get simple interest at the rate of 7 per cent per annum for delayed deposit from 61st day onwards.

Parties are left to bear their respective costs.

Date: 04.08.2023

SOMA SHEKHAR JENA, Presiding Officer,

नई दिल्ली, 1 सितम्बर, 2023

का.आ. 1387.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मंडल अभियंता दूरसंचार विभाग, एमएआरआर बी-13 सेक्टर 6एफ अलीगंज, लखनऊ, के प्रबंधन के संबद्ध नियोजकों और श्री आशाराम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर पंचाट(संदर्भ संख्या 03 of 1996) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 22.08.2023 को प्राप्त हुआ था।

[सं. एल -42012/172/94- आईआर(डीयू)]

डी. के. हिमांशु, अवसर सचिव

New Delhi, the 1st September, 2023

S.O. 1387.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 03 of 1996**) of the **Central Government Industrial Tribunal cum Labour Court –Kanpur**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **Divisional Engineer Telecom Department, MARR B-13 Sector 6F Aliganj, Lucknow, and Shri Asha Ram, Worker**, which was received along with soft copy of the award by the Central Government on 22.08.2023.

[No. L-42012/172/94-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT

KANPUR

PRESENT: SOMA SHEKHAR JENA

HJS (Retd.)

I.D. No. 03 of 1996

BETWEEN

Sri Asha Ram S/o Bhaga

Village Binamakamadhi P.O. Babarpur District Hardoi.

AND

Divisional Engineer Telecom Department,

MARR B-13 Sector 6F Aliganj Lucknow.

AWARD

1. From the case record it is seen that by notification no. L-42012/172/94-I.R.D.U. dated 28.12.1995 issued by the Government of India, Ministry of Labour and Employment this Tribunal was called upon to adjudicate the industrial dispute stated in the Schedule mentioned hereafter: "Whether the action of the management of DET MARR Lucknow to ask Shri Asha Ram workman to report for duty to Parent Unit and to join the duties by SDOT Hardoi is legal and justified? If not, to what relief he is entitled to?"

The averments of the claimant workman may be concisely stated as hereafter:

That the services of the claimant workman have been terminated by the employer w.e.f. 18-1-93 unreasonably and illegally. It is averred that Assistant Engineer Telecom M.A.R.R. under which is under Divisional Engineer Telecom was the employer of the applicant. The job on which the applicant was working is of permanent nature and the post in which the applicant was working was completely vacant. The services of the applicant were terminated on 18/01/1993 in an unfair and illegal manner. There was no indictment against the applicant and no charge sheet had ever been served and no opportunity of defence had been given. That's why it is unfair and illegal to remove the claimant from the job without any reason. The removal of the applicant from the job was retrenchment under Section 2 OO of the Industrial Disputes Act. Therefore, as per Section 25F of the Act, the claimant should have been given notice pay and retrenchment compensation before being fired which was not given by the employers. The claimant was an old employee and was entitled to be regularised, but the departmental officer, in order to employ his own man, fired the claimant and engaged his own man.

The averments of the O.P. side may be concisely stated as hereafter:

O.P. side has refuted truthfulness of the averments of the claimant workman O.P. side has denied that claimant Asharam was employed by the O.P. management in the year 1980 and that in the year 1983, the applicant Asha Ram ever nominated for regular appointment by the opposite party. There was no contract of employment between the claimant applicant and the opposite party, nor was there relationship of workman and employer established between the claimant and the opposite party. The applicant was never given any appointment letter nor was he appointed by the opposite party no. 3 as wrongly claimed. Whenever labor work was required in the area of operation he was called to work on daily wages by the opposite party.

The points to be answered in this proceeding are as follows:

1. Whether direction of the DET MARR Lucknow to claimant workman Asha Ram to report for duty at his Parent Unit SDOT, Hardoi was legally justifiable.
2. Whether claimant Asha Ram was legally entitled for reinstatement in the job under the O.P. management (Divisional Engineer DET MargLucknow) w.e.f. 18.01.1993.
3. To what relief the claimant is entitled.

For a long time none appears on behalf of the parties and in such scenario it appears appropriate to dispose of the case on the basis of available pleadings and documentary evidence already filed by the parties in accordance with the spirit of section 10 (8) of the ID Act, 1947.

Point no. 1:

Point no. 1 & 2 are taken up together for the sake of convenience of discussions:

It is now well settled in law that the Telecom Department of the Government of India which was forerunner of the BSNL was industry as per the Industrial Disputes Act, 1947. The petitioner has claimed that he had worked for the period as described hereunder:

January, 1980	27 days
April, 1980	22 days
May, 1980	31 days
June, 1980	21 days
July, 1980	27 days
August, 1980	22 days
September, 1980	17 days
October, 1980	10 days
January, 1981	14 days
February, 1981	28 days
March, 1981	23 days
April, 1981	30 days
March, 1981	28 days
March, 1982 to September, 1984	301 days
March, 1985	25 days
July, 1988	31 days
August, 1991 to March, 1992	244 days
April, 1992 to January, 1993	221 days

as stated in his application before the Hon'ble Supreme Court. He cannot be permitted to resile from the above stated period of work. It is well admitted that claimant Asha Ram was terminated w.e.f. 18.01.1993. He claims to have worked for more than 465 days from August, 1991 to January, 1993 and before effecting termination the provisions of section 25-F of the Industrial Disputes Act, 1947 were not duly complied in the matter of issuance of notice and payment of retrenchment compensation.

It is averred by O.P. employer side that Asha Ram was shifted to work under the SDOT, Hardoi as no work was available under AE Tx. Pr. (S) of the DET, MARR, U.P. Telecom Circle. This part of stand of the O.P. has not been duly controverted and shattered by the claimant side. Actual terms of engagement of Asha Ram under the O.P. management have not been clearly proved. There is inadequate evidence in the matter of violation of section 25-E of the ID Act, 1947. In other words from the evidence adduced by the parties it cannot be conclusively held that by shifting claimant workman Asha Ram to SDOT Hardoi. The conditions of employment of Asha Ram were violated contrary to any provision of the ID Act. From the documents stated to be an order TPUP/AE Tx. Pr. (S) LW./ 93-94 dated 21.05.1993 it is evident that Asha Ram was shifted to SDOT, Hardoi for the reason that no work was available with the Assistant Engineer Tx. Pr. (s). Truthfulness or acceptability of the documents TPUP/AE Tx. Pr. (S) LW./ 93-94 dated 21.05. 1993 has not been demolished. In the circumstances, it is held that shifting of Asha Ram to SDOT, Hardoi cannot be held to be illegal.

Law is now well settled that when retrenchment is illegal reinstatement with back wages is not the automatic judicial consequence. It is also well settled in law that casual workers are not legally entitled for regularization on permanent vacancy of the Government Controlled Public Sector Undertakings in a routine manner. Casual workers engaged in the Department of the Government if regularized on permanent vacancies will amount to back door entry into Government job which is impermissible in law. Asha Ram might have worked exceeding 240 days as claimed by him. From a document found in the record it is seen that the Assistant Engineer Telecom Survey had issued a certificate showing that Asha Ram had worked for 204 days during the period April, 1992 to the end of December, 1992. Another document at page 45/3 stated to have been issued on 24.04.1992 reveals that from August, 1991 to March, 1992 Asha Ram had worked for 244 days. These two documents have not been shattered by the O.P. side. From cumulative reading of these two documents brought on record, it is crystal clear that from January, 1992 to December, 1992 Asha Ram had worked exceeding 240 days during the Twelve Calendar months prior to his termination. There is no clear evidence if the O.P. side had duly followed the mandate enshrined in 25-B and 25-F of the ID Act, 1947 but It can be logically held that he was not legally entitled to be absorbed on permanent vacancy by way of regularization in the D.E.T. or under the BSNL.

At this distant point of time claimant Asha Ram cannot be logically reinstated in job as the working environment has undergone devastating changes reinstatement of the claimant under the O.P. management is found to be unworkable. The point is answered accordingly.

Point no. 3:

It is well settled in law that when a casual worker has been terminated without due compliance of section 25-B and 25-F of the ID Act, 1947 instead of reinstatement he may be entitled for compensation. There is no clear evidence that after termination claimant had gone without gainful employment. The burden lies on the claimant to establish that after termination he was rendered jobless without gainful employment and this burden has not been duly discharged. It is also clear that the claimant had defied direction of the employer to take up employment under SDOT Hardoi which was the parent Unit due to non-availability of work under A.E. Tx Pr. (S), Lucknow of the Telecom Department. Since, vast changes occurred in the meanwhile it is highly inappropriate to order payment of back wages when after termination the O.P. management had not received any service of the claimant. At this point exact compensation payable to the claimant cannot be worked out with mathematical accuracy and in the given circumstances the compensation has to be released under guess work considering the period of work.

In view of the scenario stated above and by resorting to guess work it is held that claimant is entitled to get one time compensation of Rupees Two Lakhs which shall be deposited in his account and if he is not alive in the joint account of his successors before Sixty First day after publication of the award failing which the O.P. side shall be saddled with payment of simple interest at the rate of eight per cent per annum till the amount is deposited.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer,

नई दिल्ली, 4 सितम्बर, 2023

का.आ. 1388.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सिंह इंटेलिजेंस सिक्योरिटी प्रा. लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **कोलकाता** के पंचाट (01/2022) प्रकाशित करती है।

[सं. एल -12011/19/2021-आई आर (बी- I)]

सलोनी, उप निदेशक

New Delhi, the 4th September, 2023

S.O. 1388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 01/2022) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of M/s Singh Intelligence Security Pvt. Ltd. (SISPL) and their workmen.

[No. L-12011/19/2021-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.01 OF 2022

Parties: Employers in relation to the management of

M/s Singh Intelligence Security Pvt. Ltd. (SISPL)

AND

Their Workmen

Appearance:

On behalf of Management

: Mr. Debashis Sarkar,

Advocate – Present.

On behalf of the Workmen

: None

Dated 27th February, 2023

AWARD

The Union, Contractual Bank Employees Union Forum, West Bengal, which has espoused the dispute on behalf of a contractor workman. Sri Bivas Dey, a Security Guard has failed to appear inspite of due service of notice appearance upon it as per A.D. Card.

While Contractor Employer M/s Singh Intelligence Security Pvt. Ltd. is present through its Ld. Lawyer Mr. Debashis Sarkar.

The Govt. of India, through Ministry of Labour Order No. L-12011/19/2021 [IR (B-1)] dated 08.11.2021 has referred the following issues for adjudication.

“Whether the action of the management of M/s Singh Intelligence Security Pvt. Ltd. (SISPL) in terminating the service of Sri Bivas Dey, SBI ATM Security Guard without following the statutory provisions under Section 25 F of I.D. Act is legal and / or justified? If not, what relief the concerned workman is entitled to?”

Unfortunately, the Union which has raised the dispute is not inclined to proceed with the hearing of the reference case by filing claim statement and putting its appearance. So, it can be inferred the Union has no grievance against the employer. Consequently, no dispute award is passed and Reference Case No. 01 of 2022 is disposed of.

Send copy of this ‘No Dispute Award’ to the Ministry for doing needful.

Supply copy to the parties.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2023

का.आ. 1389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **कोलकाता** के पंचाट (36/2015) प्रकाशित करती है।

[सं. एल-41012/21/2015-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 4th September, 2023

S.O. 1389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 36/2015) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of South Eastern Railway and their workmen.

[No. L-41012/21/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Present: Justice K. D. Bhutia, Presiding Officer.****REF. NO. 36 OF 2015**

Parties: Employers in relation to the management of
South Eastern Railway

AND**Their Workmen**

Appearance :

On behalf of Management, South Eastern Railway : Absent

On behalf of the Workmen : Absent

Dated 18th July, 2023**AWARD**

The Workman is found absent despite due service of fresh notice of the case on 08.06.2023 as per track report.

The Management too is found absent. Since both side despite having knowledge of existence of this Reference, being referred U/s 10(I)(d) of the I.D. Act, by the Central Govt., Ministry of Labour on receipt of conciliation failure report from the concerned Labour Commissioner, did not bother to put appearance and pursue the Industrial Dispute raised by a staff / employee against the employer challenging his termination from service.

Be that as it may, the Central Govt., Ministry of Labour vide order No. L-41012/21/2015-IR(B-I) dated 18.06.2015 referred the following issue to this Tribunal for adjudication:-

“Whether the action of the General Manager, S.E. Railway, Garden Reach, Kolkata in giving punishment of removal from service to Shri S.N. Sarkhel, Ex. Junior Clerk, CPO's Office / GRC, South Eastern Railway, Kolkata without confirming from the hand writing expert the signature of Shri Sarkhel on the alleged forged appeal dated 30.10.2006 is justified ? If not, what relief the workman is entitled to?”

Unfortunately, the workman who has raised such dispute having received notice of this reference case has failed to appear and pursue the dispute. That apart there is nothing or no materials in the record to decide the issue under reference.

In view of the above, Ref. Case No. 36 of 2015 is disposed of and no dispute award is passed accordingly.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1390.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, मैसर्स. टेन्टैकल सेक्योर स्क्वाड प्रा. लिमिटेड, नोलंबूर, चेन्नई; महाप्रबंधक, मैसर्स. एनएलसी इंडिया लिमिटेड, टाउनशिप प्रशासन, नेवेली के प्रबंधन के संबंध में नियोजकों और श्री. सी. सुब्रमण्यन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 73/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-172-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1390.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Managing Director, M/s. Tentacle Seure Squads Pvt. Ltd., Nollambur, Chennai ; The General Manager, M/s. NLC India Limited, Township Administration, Neyveli, and Shri. C. Subramanian, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42025/07/2023-172-IR (DU)]

D. K. HIMANSHU, Under Secy.

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 73/2022

Present: Dipti Mohapatra, LL.M. Presiding Officer

Date: 21.06.2023

Sri C. Subramanian

Chinnathambi

1/170, A Kokannkuppam Ammeri Post

Vridhachalam Taluk

Cuddalore-607802

: 1st Party/Petitioner

AND

1. The Managing Director

M/s Tentacle Seure Squads Private Ltd.

MIG-306, TNHB, Phase-II

3rd Main Road

Nolambur

Chennai-600037

: 2nd Party/1st Respondent

2. The General Manager

M/s NLC India Ltd.

Township Administration

Neyveli-607801

: 2nd Party/2nd Respondent

Appearance:

For the 1st Party/Petitioner : Set Ex-Parte
 For the 1st Respondent : None
 For the 2nd Respondent : Advocates, Sri A. Kuppusami, N.
 Nithianandam

AWARD

The Central Government, Ministry of Labour & Employment vide its No. 01/17/2021/PDY/Adj./A1 dtd. 01.07.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the claim of Sri C. Subramanian alleging termination of employment w.e.f. 18.08.2020 by the management of Tentacle Seure Squads P Ltd. (NLC Contractor) is legal and justified? If not, to what relief the workman is entitled to?”

2. The above dispute in reference was registered as ID No. 73/2022 and due notices were issued to both parties for their appearance on 17.10.2022. The Petitioner did not turn up resulting adjournment to 28.11.2022 and to further dates till 29.05.2023 intervening 3 more adjournments. The Petitioner did not turn up on any of the date of posting but both the Respondents entered appearance. Without resorting to any coercive steps, the Tribunal afforded another fair chance to the Petitioner for appearance vide Order dtd. 29.05.2023. The case was listed to 08.06.2023. On repeated calls, neither Petitioner nor any one on his behalf either the Authorized Representative or any Counsel was present. No Petition for extension of time is filed. In such circumstance, the instant case is liable for dismissal, the Tribunal reserved the case for final order for the interest of justice. Needless to say till the date the Petitioner did not turn up nor filed any Petition seeking extension of time. It deems the First Party Petitioner has no interest to proceed with the case. Thus, the case is liable for dismissal in accordance to Law.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government. In the result the reference is answered against the Petitioner.

The ID case stands dismissed

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1391.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, मैसर्स. टेंटैकल सिक्वोर स्क्वाड प्रा. लिमिटेड, नोलंबूर, चेन्नई; महाप्रबंधक, मैसर्स. एनएलसी इंडिया लिमिटेड, टाउनशिप प्रशासन, नेवेली, के प्रबंधन के संबद्ध नियोजकों और श्री. वी. कामराज, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई पंचाट (संदर्भ संख्या 75/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-173-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1391.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Managing Director, M/s. Tentacle Seure Squads Pvt. Ltd., Nollambur, Chennai ; The General Manager, M/s. NLC India Limited, Township Administration, Neyveli, and Shri. V. Kamaraj, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42025/07/2023-173-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI
ID No. 75/2022

Present: **Dipti Mohapatra, LL.M., Presiding Officer**

Date: 21.06.2023

Sri V. Kamaraj

S/o R. Venugopal

No. 3, Om Muruga Nagar

Vadakumellore, Kurinjipadi Taluk

Cuddalore

Tamil Nadu-600037

: 1st Party/Petitioner

AND

1. The Managing Director

 M/s Tentacle Seque Squads Private Ltd.

 MIG-306, TNHB, Phase-II

 3rd Main Road

 Nolambur

Chennai-600037

: 2nd Party/1st Respondent

2. The General Manager

 M/s NLC India Ltd.

 Township Administration

Neyveli-607801

: 2nd Party/2nd Respondent

Appearance:

For the 1st Party/Petitioner

: Set Ex-Parte

For the 1st Respondent

: None

For the 2nd Respondent

: Advocates, Sri A. Kuppusami,
 N. Nithianandam

AWARD

The Central Government, Ministry of Labour & Employment vide its No. 01/19/2021/PDY/Adj./A1 dtd. 01.07.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the claim of Sri V. Kamaraj alleging termination of employment w.e.f. 18.08.2020 by the management of Tentacle Seque Squads P Ltd. (NLC Contractor) is legal and justified? If not, to what relief the workman is entitled to?”

2. The above dispute in reference was registered as ID No. 75/2022 and due notices were issued to both parties for their appearance on 18.10.2022. The Petitioner did not turn up resulting adjournment to 28.11.2022 and to further dates till 29.05.2023 intervening 3 more adjournments. The Petitioner did not turn up on any of the date of posting but both the Respondents entered appearance. Without resorting to any coercive steps, the Tribunal afforded another fair chance to the Petitioner for appearance vide Order dtd. 29.05.2023. The case was listed to 08.06.2023. On repeated calls, neither Petitioner nor any one on his behalf either the Authorized Representative or any Counsel was present. No Petition for extension of time is filed. In such circumstance, the instant case is liable for dismissal, the Tribunal reserved the case for final order for the interest of justice. Needless to say till the date the Petitioner did not turn up nor filed any Petition seeking extension of time. It deems the First Party Petitioner has no interest to proceed with the case. Thus, the case is liable for dismissal in accordance to Law.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government. In the result the reference is answered against the Petitioner.

The ID case stands dismissed

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1392.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, मैसर्स. टेन्टकल सिक्योर स्क्वाड प्रा. लिमिटेड, नोलंबूर, चेन्नई; महाप्रबंधक, मैसर्स. एनएलसी इंडिया लिमिटेड, टाउनशिप प्रशासन, नेवेली, के प्रबंधन के संबंधित नियोजकों और श्री. वी. चेल्लापरुमल, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 76/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-174-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1392.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Managing Director, M/s. Tentacle Secure Squads Pvt. Ltd., Nolambur, Chennai; The General Manager, M/s. NLC India Limited, Township Administration, Neyveli, and Shri. V. Chellaperumal, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42025/07/2023-174-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 76/2022

Present: Dipti Mohapatra, LL.M., Presiding Officer

Date: 21.06.2023

Sri V. Chellaperumal

S/o Vadivel

No. 53, Middle Street

Thoppalikuppam

Ammeri Post

Virudhachalam Taluk

Tamil Nadu -607802

: 1st Party/Petitioner

AND

1. The Managing Director

M/s Tentacle Seure Squads Private Ltd.

MIG-306, TNHB, Phase-II

3rd Main Road

Nolambur

Chennai-600037

: 2nd Party/1st Respondent

2. The General Manager

M/s NLC India Ltd.

Township Administration

Neyveli-607801

: 2nd Party/2nd Respondent

Appearance:

For the 1st Party/Petitioner

: Set Ex-Parte

For the 1st Respondent

: None

For the 2nd Respondent

: Advocates, Sri A. Kuppusami,
N. Nithianandam

AWARD

The Central Government, Ministry of Labour & Employment vide its No. 01/20/2021/PDY/Adj./A1 dtd. 01.07.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the claim of Sri V. Chellaperumal alleging termination of employment w.e.f. 18.08.2020 by the management of Tentacle Seure Squads P Ltd. (NLC Contractor) is legal and justified? If not, to what relief the workman is entitled to?”

2. The above dispute in reference was registered as ID No. 76/2022 and due notices were issued to both parties for their appearance on 18.10.2022. The Petitioner did not turn up resulting adjournment to 28.11.2022 and to further dates till 29.05.2023 intervening 3 more adjournments. The Petitioner did not turn up on any of the date of posting but both the Respondents entered appearance. Without resorting to any coercive steps, the Tribunal afforded another fair chance to the Petitioner for appearance vide Order dtd. 29.05.2023. The case was listed to 08.06.2023. On repeated calls, neither Petitioner nor any one on his behalf either the Authorized Representative or any Counsel was present. No Petition for extension of time is filed. In such circumstance, the instant case is liable for dismissal, the Tribunal reserved the case for final order for the interest of justice. Needless to say till the date the Petitioner did not turn up nor filed any Petition seeking extension of time. It deems the First Party Petitioner has no interest to proceed with the case. Thus, the case is liable for dismissal in accordance to Law.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government. In the result the reference is answered against the Petitioner.

The ID case stands dismissed

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1393.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक (एचआर-कानून), मेसर्स भारत हेवी इलेक्ट्रिकल्स लिमिटेड, बॉयलर सहायक संयंत्र (बीएपी), रानीपेट, वेल्लोर, के प्रबंधन के संबद्ध नियोजकों और महासचिव, बीएपी स्टाफ यूनियन, बीएचईएल/बीएपी, रानीपेट, वेल्लोर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 90/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2023 को प्राप्त हुआ था।

[सं. एल-42011/279/2022 -आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1393.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The General Manager (HR-Law), M/s Bharat Heavy Electricals Ltd. Boiler Auxiliaries Plant (BAP), Ranipet, Vellore, and The General Secretary, BAP Staff Union, BHEL/BAP, Ranipet, Vellore**, which was received along with soft copy of the award by the Central Government on 16.08.2023.

[No. L-42011/279/2022 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

Present : Dipti Mohapatra, LL.M., Presiding Officer

I.D. No. 90/2022

Dtd: 19.06.2023

The General Secretary

BAP Staff Union, BHEL/BAP

Ranipet

Vellore-632406

: First Party/Petitioner

AND

The General Manager (HR-Law)

M/s Bharat Heavy Electricals Ltd.

Boiler Auxiliaries Plant (BAP)

Indira Gandhi Industrial Complex

Ranipet

Vellore-632406

: Second Party/Respondent

Appearance:

For the First Party/Petitioner

: Authorized Representative,

J. Nandakumar

For the Second Party/Respondent

: Authorized Representative

Sri T.S. Balaji, DGM (HR-Law)

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/279/2022 (IR(DU) dtd. 22.08.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Bharat Heavy Electricals Ltd., Boiler Auxiliaries Plant (BAP), Ranipet, Vellore in discontinuing / stoppage of transport facility i.e. Operation of Company Bus from 01.06.2022 as raised by BAP Staff Union, Ranipet vide letter dtd. 20.05.2022 is proper, legal and justified? If not to what relief the workmen are entitled to? What directions, if any are necessary in the matter?”

2. A little reference to the backdrop of the case needs mention that on receipt of the schedule from the appropriate Government, is registered as ID No. 90/2022. Notices were issued to both the parties for their appearance 20.10.2022. On that day, Sri T.S. Balaji, DGM (HR-Law) entered appearance on behalf of the Second Party Respondent whereas the Petitioner Union remained un-represented. The case was reposted to 14.12.2022. On that day, the General Secretary of the First Party Petitioner Union was not present but has sent a Memo dtd. 13.12.2022 to withdraw the case on the ground of amicable settlement held in between the parties. Accordingly, the Tribunal passed

necessary order of direction to the General Secretary to be present and file Memo, if any in this regard. The case was accordingly listed to 19.12.2022. On 19.12.2022, the General Secretary, Sri J. Nandakumar appeared and filed a Memo dtd. 13.12.2022 seeking permission to withdraw the case on the grounds stated therein. The Second Party Respondent filed Authorization, delegated to the Executive Director of Bharat Heavy Electricals Ltd. to represent the case. It is submitted that the Respondent is aware of the contents of the Memo dtd. 13.12.2022 seeking permission for withdrawal of the case.

3. For a just and proper order, the relevant documents are perused. It reveals from the Memo dtd. 13.12.2022 that both the parties held a bilateral discussion on 24.08.2022 and arrived at an understanding for sorting out the issue amicably regarding the transport facility. Accordingly, the General Secretary of the First Party Union seeks permission of the Tribunal for withdrawal of the dispute in the instant ID. The Authorized Representative of the Respondent, was present but raises no objection to the contents of the Memo as well as the submission of the First Party Union.

4. In view of the discussion held supra, it reveals that the Memo seeking permission for withdrawal of the dispute is an outcome of own volition of the First Party Union. Taking into consideration of the above fact, it is held that there will be no legal impediment to accord permission to the First Party Union to withdraw the dispute in the instant ID as much as the submission of both parties has got sufficient force. Accordingly, the instant ID case is disposed of as withdrawn.

There exists no dispute for adjudication of the reference.

The ID case 90/2022 stands dismissed as withdrawn.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1394.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स गैरिसन इंजीनियर्स और 2 अन्य, सैन्य इंजीनियरिंग सेवाएँ, आईएनएस राजली, अराकोणम, के प्रबंधन के संबद्ध नियोजकों और श्री आर. रमेश, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय - चेन्नई पंचाट (संदर्भ संख्या 314/2001) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 28.08.2023 को प्राप्त हुआ था।

[सं. एल-14012/41/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1394.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 314/2001) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **M/s Garrison Engineers & 2 Others, Military Engineering Services, INS Rajali, Arakkonam, and Shri. R. Ramesh, Worker**, which was received along with soft copy of the award by the Central Government on 28.08.2023.

[No. L-14012/41/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID 314/2001

Present: Dipti Mohapatra, LL.M., Presiding Officer

Date: 21.07. 2023

Sri R. Ramesh

S/o S.Rose Reddy

No.58, North Street.

Aanaipakkam (village & Post)

Arakkonam .161,

Thambu Chetty Street

1st Party/Petitioner

Vs.

M/s Garrison Engineers & 2 Others

Military Engineering Services

INS Rajali

Arakkonam-651002

:

2nd Party/Respondents

Appearance:

For the 1st Party/Petitioner

:

Advocates, M/s Balan & Haridas

For the 2nd Party/Respondents

:

Advocate, Sri R. Kumar

A W A R D

The Central Government, Ministry of Labour & Employment vide its Order No.L-14012 /41/2000/IR(DU) dtd 30.11.2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Sh. R ramesh who has been engaged through TNR Enterprises for operation and maintenance of DG Sets w.e.f. 02.02.2000 is legal and justified? If not, to what relief the workman is entitled?”

2. A little reference to the backdrop of the case needs mention that the Award the Award dtd. 26.04.2016 of the Tribunal was challenged by the both the parties on their respective pleas vide separate Writ Petitions, before the Hon’ble Court of High Court of Madras. The Hon’ble Court disposed of all the individual (separate) Writ Petitions preferred by 30 Petitioners ,along with the Writ Petition preferred by the Respondents ,vide a common order dtd 18.09.2017 and remanded back the case by setting aside the common Award passed by the Tribunal (in respect of all 30 petitioners) with a direction for fresh hearing and adjudication at the earliest. In compliance to the direction of the Hon’ble Court and after receipt of the records, both parties were duly noticed for hearing afresh. The Petitioner since reserved his right to file additional Claim Statement, filed only after the case is remanded from Hon’ble Court for fresh trial. Additional Counter Statement was also filed.

3. Petitioner’s case in a nutshell is that he joined the Respondent on 15.06.1994 as DG Operator through Contractor and continued to work even often when there was change of Contractors. But the Administrative control remained with the Principal Employer as such the petitioner and others worked under the supervision of Respondent and not under the Contractors. The Petitioner’s continued to work for six years under the direct supervision of Respondent. The contractors had no valid license under the Contract Labour (Regulation and Abolition) Act, thereby the Contractor and the Contract are sham and nominal. The Respondent played unfair labor practice by terming the Petitioner as contract Labor only for the obvious purpose to deprive the petitioner and others from their legitimate entitlements at par with the permanent staff.. He was paid with only the monthly salary without any other benefits. The Petitioner along with others (all Other Petitioners of the Batch ID Cases) joined in “Socialist Workers Union” which placed certain “Charter of Demands dtd 16.08.1999” before the Respondent, regarding confirmation and wage revision at par with the permanent Workmen. But the demand was never taken into consideration by the Management, The dispute was raised before the Labor Commissioner to fix the wages at par with Permanent Employees, The Petitioner and all other co-worker (other Petitioners) even send letters to their respective Contractors, Grade officers of the Principal Employer to pay the full salary as per their entitlements. Respondent did not pay a heed to their such request. Their written Representations were not even received. The Petitioner along with others raised dispute before conciliation officer. Even pending disposal of the dispute before the Conciliation officer, the Respondent terminated the Petitioner along with co-workers (Petitioners of the batch case) on 02.02.2000 without Notice or Notice Pay. The petitioner requested the Respondent through the Union to reinstate him, but his such request was also turn-down. The termination without notice attracts 25(f) and (n) of the ID Act. Thus the Petitioner seeks relief of his reinstatement, with full back wage, continuity of service and all other attendant benefits

4. The Respondents entered appearance and filed common counter statement, traversing almost all the pleadings of the Petitioner. The maintainability is challenged. It is contended that the Respondent has never appointed the petitioner at any point of time. It is further pleaded that the Respondent, being a Defence Organization carrying out all works for all three wings i.e, Army, Navy and Air Force through the Contractors of the respective empaneled Firms/Companies of the department of MES. All such Contractors are employed with the approval of the Competent Authority, the Engineer in Chief. Thus, the plea of the Petitioner and Other Petitioners of the batch case regarding their direct engagement by the Respondents was denied as much as they themselves have admitted that these Contractors had no valid license under Contract Labour (Regulation & Abolition) Act. Thus, the Respondents can never be fastened with any liabilities. Besides, the claim of Unfair Labour Practice by the Respondents is also denied. It is vehemently pleaded that the present Petitioner and Other Petitioners in batch case are trying to get into the job through backdoor entry. There exists no Employer–Employee relationship in between the Respondent and the Petitioner and Other Petitioners in the batch case. The present Petitioner nor any of the Petitioners of the batch case since were never engaged / employed, their claim of termination has got no bearing for consideration. The dispute raised under the Schedule of Reference is not sustainable within the purview of the ID Act. The case is liable for dismissal. The Petitioner and Others are not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, R. Ramesh while examined himself as WW1, relied on 3 documents marked as (i) a series of extract of Attendance Register (ii) Extracts of Duty roster chart for the period from 10/ 98 to 12/99 and (iii) Gate Pass for the year 1995 to 2000 marked as Ext.W1 to Ext.W3. The Respondent examined Sh S. Jagannathan, the Asst Garrison Engineer (E/M) Manager (HR) as MW1. Thirteen (13) documents were produced and marked as Ext.M1 to Ext. M13 (These 13 documents are common for all batch ID cases).

The following issues emerge in the pleadings of the parties:

- (i) Whether there exists relationship of Employer-Employee in between the Respondents and the Petitioner?
- (ii) Whether the Applicant was terminated without prior notice and notice pay and attracts 25(f) of the Act
- (iii) To what relief the Applicant / Petitioner is entitled to?

Issues (i) & (ii)

6. Since both the Issues (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion.

The crux of the issues would set at rest only when the Petitioner would prove the existence of relationship of Employer-Employee in between the Respondent and the Petitioner.

The Petitioner in support of his Claim Statement adduces evidence that he joined the Respondents on 15.06.1994 as DG Operator and working continuously for 6 years till his illegal termination on 02.02.2000. It is further stated that he himself and the Other Petitioners of the batch case faced interview and as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and was paid monthly salary within the campus itself. It is also added by the Petitioner that he has been working on deputation in the event of absence of any Operator in any other Wing such as Sub-Station-I ATC, ATH, LRME, CADF, WTC and NDB site. Not only that, at times he was performing some challenging duties at NDB site to open up the panel at NDB for fault rectification and thereby worked continuously for 24 to 36 hours. The Petitioner was working under the control and supervision of the Respondents and not under the Contractor, as pleaded by the Respondents. The so-called Contractors had no valid license under the Contract Labour (Regulation and Abolition) Act. The Petitioner was continuing as such for six years and paid with only the basic salary and without any other benefits. The Attendance Register was duly maintained. They were paid with monthly salary. While the matter stood thus it came to his knowledge that the Respondent were confirming some employees in Permanent cadre of Fitter General Mechanic (FGM, Technical Operator and Technicians). The Petitioner along with his co-employees approached the Grade I and Grade II Officers to regularize their job and to pay full salary and benefits as of the other Permanent employees. Their such request was never considered. Even the Written Representations of the Petitioner and Co-Workers (the Petitioners in the batch cases) were not received by them. But to their utter surprise, the Petitioner and Other Petitioners in the batch case were terminated from job on 02.02.2000 without any prior Notice and Notice Pay. Their entry to the campus of Respondent was prevented. It is stated that the so called Contract and Contractor is sham and nominal. By terming the Petitioner as a Contract Labour, the Respondents simply denied the eligible benefits at par with the Permanent labour.

7. The Respondent adduced evidence through one of its Witness, Sri S. Jagannathan, the Assistant Garrison Engineer (M) NAS. In support of the pleadings in the Counter Statement he adduces evidence denying almost all the claims raised by the Petitioner. It is submitted that the Respondent Department has entered into Contracts with different Contractors such as M/s T.N.R Enterprises and M/s R.D. Enterprises for different spells of time to provide technical persons, labours for the purpose of the maintenance work undertaken by the Respondent's Organization, the MES for all the Defence Wings i.e. Air Force, Naval and Military. The MES Organization never engages any

employee as Petitioners. There is no direct relationship in between the Respondents and Petitioners and also the Co-Petitioners.

8. During the course of his examination, he drew attention to the documents relied by the Respondent. Ext.M1 to Ext.M5 (Page 1 to 298) are the contracts executed in between the Contractor M/s T.N.R. Enterprises and the MES for successive years commencing from 1995 to 1997. Ext.M6 (Page 299 to 332) and Ext.M11 (Page 382 to 401) contains the declaration of the said Contractor enlisting a number of labours (the Petitioners and Others) with Educational Qualification Certificate to carry out the work entrusted to them. Ext.M7 is the extract of the Muster Roll (Page 333 to 339) duly approved by the Department. Ext.M8 (4 Sheets, Page 340 to 346) is the payment made by the Contractor M/s T.N.R. Enterprises to the Petitioner and Other Petitioners and countersigned by the Department. The name of the present Petitioner appears in these sheets. Ext.M9 (two sheets, Page 347 to 380) shows payment made to Contractor by the Respondent for the Period 1997-1998. Ext.M10 (Page 381) is the intimation by the Contractor to the Department regarding the probability of wage hike from April onwards pertaining to the year 1997-1998. Ext.M12 contains a series of documents from Page 402 to 429. Payment of Rs. 1,33,000/- was made by the Respondent, the MES to the Contractor, M/s R.D. Enterprises for the year 1999-2000. The series of documents, those are Work Done Statement, Vouchers of different Automobile Dealers and some extract (3 Sheets) of the relevant Register showing payment of remuneration / wage made by the then Contractor, M/s R.D. Enterprises to the Petitioner and Others for the period from 15th August 1999 to 14th October 1999. Ext.M13 (Page 430 to 435) is a forwarding letter of the complaint made by the Petitioner and Others (DG Operators). In that complaint the DG Operators sought for the intervention of the Respondent to enhance their salary / payment of full salary as their such request was not heeded by their Contractors. MW1 was Cross-Examined by the Counsel for the Petitioner at length.

9. In view of the discussion held in preceding paragraphs as well as the documents filed by both the parties, the argument is well advanced by the representing Counsels in support of their respective pleadings. Admittedly, the Petitioner claims to have joined the Respondent on 15.06.1994 but the documents relied by the Petitioner under Ext.W1, Ext.W2 and Ext.W3 are the series of extracts of the Attendance Register commencing with period from August 1998 to June 1999. Similarly the extract of the Duty Roster was for the months October 1998 to December 1999 and Ext.W3 contains five Gate Passes i.e. the Gate Pass was issued on 29.12.1995 for the year 1996-1997 and subsequent Gate Passes were issued for the years 1997-1998, 1998-1999 and 1999-2000. The name of the Contractor, M/s T.N.R. Enterprises appear against the relevant column meant for the Name of the Employer. It clearly shows that the Petitioner was directly employed by the Contractor, M/s T.N.R. Enterprise from the date of issuance of Gate Pass i.e. from 29.12.1995. The Petitioner fails to produce a single scrap of document, if at all he was ever employed by the Respondent on 15.06.1994 and continued upto the issuance of the Gate Pass.

10. On the other hand, it reveals that only in order to make out a case, the Petitioner for the first time introduced some new statements during his evidence which was never pleaded either in the original Claim Statement before this Tribunal 15.02.2001 as per the Court seal affixed on it or in the Additional Claim Statement which was filed on 04.03.2019, only after the case was remanded for fresh hearing that the Respondent's MES office had displayed a Notice on the Notice Board at the Main Guard Room, INS, Rajali Arakkonam for recruitment of AC & DG operator. The Petitioner and Other Petitioners in the batch case approached the concerned officials and handed over their respective Bio Data and attended the Interview conducted by them. The Petitioner and Others were told to join on the next day. Accordingly the Petitioner as per the direction of the competent official went to the site of work within the campus of INS Rajali, Arakkonam and from that day onwards joined the service and paid monthly salary within the campus itself. In this context, the argument advanced by the Learned Counsel for the Respondent that the above statement of the Petitioner (WW1) cannot be accepted as an after-thought statement. Admittedly, the Petitioner failed to produce a single scrap of document to substantiate his claim of joining on 15.06.1994 directly under the Respondent. The Petitioner not only failed to produce any supporting document of his engagement but also miserably failed to produce a single scrap of document if at all he ever received any wage / remuneration from any of the Respondents.

11. On the contrary the documents relied by the Respondent which are vividly discussed in preceding paragraphs gives a clear-cut picture of the engagement of the Petitioner along with Other Petitioners in the batch Case were made by the Contractor, M/s T.N.R. Enterprises for the period from 1995-1997 vide Ext.M1 to Ext.M5. The document under Ext.M8 shows payment made by the Contractor to the Petitioners. The Petitioner's name finds place at S.No. 36 as Helper in Ext.M8 showing payment of Rs. 2,100/- in the month of September, 1997. The Contractor, M/s T.N.R. Enterprises signed on it which is countersigned by the Respondent official. Similarly, Ext.M9 reveals that an amount of Rs. 1,31,500/-, being the estimated dues paid to the Contractor, M/s T.N.R. Enterprises by the Respondent. On perusal of these two documents it reveals the named Contractors were engaged by the MES to carry out the works by engaging labours / employee and the Petitioner is one of such employee under the Contractor. It is well convinced that the Petitioner and Others have never been engaged by the Respondent but directly engaged by the Contractors, M/s T.N.R. Enterprises for the period from 1995-1997. It is also well evident from Ext.M12 that the Respondent engaged M/s R.D. Enterprises to carry out the maintenance work through its employees for the period 1999-2000. The entire document clearly disclose that the Respondents engaged the Contractors and made regular payment with regard to the estimated expenditure borne by them to carry out the maintenance and other works, as required by the Respondent,

MES. As such, even if except Ext.W3 (the Gate Passes) the Petitioner has relied on two more documents under Ext.W1 and Ext.W2 i.e. the Attendance Register and Muster Roll, will in no way suffice to prove that the Petitioner and Others were ever engaged directly under the Respondent for the relevant period 1998 to 1999 and 1999-2000 but were under the Contractors. Besides, not a single document is placed by the Petitioner to show that at any point of time that he and Others Petitioners in the Batch Case were under the direct control and supervision of the Respondents. The contract executed in between the Respondents and the above named Contractors defined a clear-cut clause that these labours / employees are to be supervised by the Supervisors of the named Contractors. Some relevant documents regarding work-order and Payment of estimated amount to Respondent are also signed by the Supervisors. Thus, it is well presumed that the Contractor engaged the Supervisors to supervise the Petitioner and other employees. In that case, if there exists any grievance for redressal, the Petitioner and his Co-Workers could have approached the respective Contractors. It is also well evident from Ext.M13 that the Petitioner alongwith Other Petitioners in batch case have made a letter to the Respondent to intervene as their request to hike the wages at par with the regular employees was turned down. Thus, the documents as discussed clearly discloses that they were not directly employed by the Respondents but they are liberty to approach only their respective Contractors.

Accordingly, it is held that there exists no Employer-Employee relationship in between the Respondents and the Petitioner. Further, from the discussion held in preceding paragraphs, this Tribunal holds that the Petitioner was never employed by any of the Respondents. Thus, no question arises on his part to claim that he was terminated by Respondents on 02.02.2000. His claim that he rendered continuous service of 240 days in a Calendar Year prior to his termination on 02.02.2000 is no way acceptable as do not attract the Section 25(f) and (n) of the ID Act.

In the result Issue No. (i) and (ii) are answered against the Petitioner

Issue No. (iii)

Consequent to the decision arrived at on Issue No. (i) and (ii), the IssueNo. (iii) needs no discussion.

The Petitioner is not entitled to any relief as sought for.

This Issue No. (iii) is answered against the Petitioner.

The ID case stands dismissed.

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	: WW1, Sri R. Ramesh
For the Respondents	: MW1, Sri S. Jagannathan A.G.E.(E/M) Manager (HR)

Documents Marked:

On the Petitioner's side.

Ext.No.	Date	Description
Ext.W1	August 1998-June1999	A series of extracts of Attendance Register
Ext.W2	Oct. 1998-Dec.1999	Extracts of Duty Roster Chart
Ext.W3	1995-2000	Gate Passes

On the Respondent's side:

Ext.No.	Date	Description
Ext.M1	19.04.1995	Contract Agreement C.A. No. CWE(P)/NAS/ARK/02 of 1995-1996 Operation and Maintenance of Generating sets at NAS Arakkonam
Ext.M2	17.06.1996	Contract Agreement C.A. No. CWE/NAS/ARK/07 of 1996-1997 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam

Ext.M3	20.07.1998	Contract Agreement C.A. No. CW!/NAS/ARK/14 of 1998-1999 Operation and Maintenance of Diesel Generating sets at NAS Arakkonam
Ext.M4	20.06.1997	Acceptance letter C.A. No. CWE/NAS/ARK/06 of 1997-1998 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M5	07.07.1997	Work Order No. 01 C.A. No. CWE/NAS/ARK/14 of 1998-1999 O&M of Diesel Generating sets at NAS Arakkonam
Ext.M6	15.07.1997	Declaration of the Contractor for appointment of labour for the subject on S.No. 4 alongwith educational qualification of the individuals for approval of the department
Ext.M7	15.07.1997 to 14.08.1997	Must role of labour duly approved by the department
Ext.M8	15.07.1997 to 14.08.1997	Payment made by the Contractor to employees (Petitioner) Countersigned by Department
Ext.M9	16.08.1997	Copy of payment made to the Contractor by the Department (1 st RAR)
Ext.M10	16.08.1997	Intimation of Contractor to the Department regarding hike in Minimum fair wages letter
Ext.M11	01.09.1999	Declaration of the contractor for appointment of labour for the subject work. C.A. No. CWE/NAS/ARK/08 of 1999 to 2000 alongwith educational qualification of the individuals for approval of the department
Ext.M12	01.08.1999 to 14.09.1999	Payment made by the Contractor to his employees (Petitioner) Countersigned by Department
Ext.M13	31.01.2000	Complaint made by the Contractor's Labour (Petitioner) on the Contractor requesting department to intervene for the payment

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1395.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, केन्द्रीय चमड़ा अनुसंधान संस्थान, अड्यार, चेन्नई ; प्रबंधन, मैसर्स नरेंद्र इंजीनियरिंग वर्क्स, सिविल और मैकेनिकल ठेकेदार, चेन्नई, के प्रबंधन के संबद्ध नियोजकों और श्री. पी. नागराजन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट (संदर्भ संख्या 31/2008) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 28.08.2023 को प्राप्त हुआ था।

[फा. सं. एल -42011/111/2007-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1395.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2008) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Director, Central Leather Research Institute, Adyar, Chennai ; The Management, M/s Narendra Engineering Works, Civil and Mechanical Contractors, Chennai, and Shri. P. Nagarajan, Worker**, which was received along with soft copy of the award by the Central Government on 28.08.2023.

[F. No. L-42011/111/2007-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT CUM LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 31/2008

Present: **Dipti Mohapatra, LL.M., Presiding Officer**

Date: 11.08.2023

Between

Sri P. Nagarajan

S/o Sri Palaniyandi

No. 11/1, Block-G2

11th Lane, Indira Nagar

Adyar

Chennai-600020

:

Petitioner

Vs.

1. The Central Leather Research Institute

Represented by its Director

Adyar

Chennai-600020

:

First Respondent

2. The Management

M/s Narendra Engineering Works

Civil and Mechanical Contractors

Chennai-600015

:

Second Respondent

Appearance

For the Petitioner

:

Advocates, M/s Mohamed Rafi

For the First Respondent

:

Advocate, Sri T. Ravikumar

For the Second Respondent

:

Advocate, Sri P.V. Sudakar

AWARD

The Central Government, Ministry of labour vide its Order No. L-42011/111/2007-IR(DU) dtd. 18.06.2008 referred the following Industrial Dispute to this Tribunal for adjudication

The schedule mentioned in that Order is:

“Whether the contract between the management of Central Labour Research Institute and M/s Narendra Engineering Works with regard to employment of Sri P. Nagarajan is sham and bogus? If yes, whether the action of the principal employer in terminating the services of the said workman w.e.f.2005 is legal and justified? If not, to what relief the workman is entitled to?”

2. A little reference to the backdrop of the case needs mention that the Award dtd. 20.09.2010 of this Tribunal was challenged by the Petitioner before the Hon'ble Court of High Court of Madras vide Writ Petition, 28109 of 2010. The Hon'ble Court while, set aside the Award dtd 20.09.2010, remanded back the matter for reconsideration. A specific direction was imparted to the Tribunal, to commence the adjudication from the stage of conclusion of the trial, and granted liberty to both parties to advance their respective oral and written arguments. In compliance to the

direction of the Hon'ble Court, the case was taken up for hearing afresh. Both parties filed their Written Submissions and advanced Oral Submission.

3. The Petitioner briefly narrates his case in the Claim Statement and in his written submission that he is a qualified Air-Condition Technician and also a Post Graduate in Commerce. He was working directly under the First Respondent since 05.08.1997. The First Respondent was disbursing his salary. Initially he was paid Rs. 1,500/- per month with gradual increase. While so, on 05.09.1998 during harness, the cutting player tool for work fell on his left eye causing bleeding injury. After first aid he underwent treatment at Government Eye Hospital, Egmore. Even then he was working continuously before the First Respondent. In the wake of the injury, cataract developed in the left eye blocking the vision, and the cataract was removed, in an operation on 20.06.2003. But the retina in the same left eye got detached on 01.10.2004. The Petitioner being advised for proper treatment approached the Madras Medical Research Foundation (Sankara Nethralaya) and underwent three surgeries at on 22.10.2004, 10.11.2004 and 30.12.2004. The Petitioner states to have worked till 21.10.2004, that is prior to his operation. After recovery when Petitioner reported for duty on 01.03.2005, he was denied employment orally. He was not compensated by the First Respondent under the provision of Workmen Compensation Act for the injury sustained due to the accident at the work-place of the First Respondent. But for the obvious purpose to deprive the petitioner from his legitimate entitlements was termed a Contract Employee under Second Respondent Contractor, M/s Narendra Engineering Works, which is only to circumvent the law. The First Respondent has not been registered under the Contract Labour (Regulation and Abolition) Act, 1970 nor the Second Respondent obtained any license under the Act. The alleged contract between 1st and Second Respondent is sham and bogus. The Petitioner has worked for more than 240 days within 12 calendar months directly under the First Respondent. The termination without prior Notice or Notice Pay attracts 25 (f) and (n) ID Act. The action of the Management amounts to unfair labour practice. The 1st Respondent has not taken prior permission under Section-25 (N) of the ID Act thus making the termination again void. The Petitioner is not gainfully employed after termination. Hence the prayer to hold that the alleged contract is sham and bogus and his termination is illegal and it is prayed that he be reinstated into service with full backwages and all other attendant benefits. The injury suffered by the Petitioner arose out of an accident in the course of his employment under 1st Respondent. No compensation was paid by the First Respondent to the Petitioner under the Workmen's Compensation Act.

4. Both the Respondents had filed their respective Counter statements separately traversing some points in common on the maintainability of the Claim Petition on the ground that First Respondent, a constituent unit of CSIR, which is a Society under the Societies Registration Act, comes under Ministry of Science and Technology, Department of Scientific and Industrial Research of which the Prime Minister is the Ex-Officio President of the Society and the Minister in charge of Science & Technology is the Ex Officio Vice President of the Society. The CSIR BYE LAWS (Ext.M2) describes the functions and objects of the Council are described in counter statement Statement. The CLRI is one of the constituents of CSIR to seek excellence in research in biological, chemical and engineering sciences to serve as a National Apex Body in the areas of leather and related products, to provide education and training in leather and allied sciences at National and International levels and to render technical assistance to Leather Industry. The research organization cannot be considered as an Industry within the definition of 2(I) of the ID Act as much as it does not indulge in any business, trade or manufacture with any commercial enterprise. It is further averred that Petitioner was never an employee of the First Respondent. He was not recruited nor appointed by First Respondent. The claim is neither legal nor justified He is a contract- worker of the Second Respondent M/s Narendra Engineering Works from 01.03.2003 to 22.10.2004. It is denied that Petitioner sustained injury during harness. There is no proof of the same. CLRI is not liable for any injury or medical expenses. Medical treatment has to be availed through ESI as an employee of M/s Narendra Engineering Works. ESI, EPF Contributions were deducted by his Contractor and CLRI is not liable for the same. CLRI has discharged all its statutory obligations to the Petitioner through the Contractor. The First Respondent is duly registered under the Contract Labour (Regulation & Abolition) Act, 1970 and Central Rules 1971 vide Registration bearing no R.1.05.2000 dtd. 22.02.2000 (Annexure-I). The First Respondent is the Principal Employer and the Second Respondent is a licensed Contractor and the award of Contract to the Second Respondent is covered by formal Agreement as per the Rule.

5. Pursuant to the order of Apex Court in Civil Appeal No 5299-5300/93 CSIR Vs. S.P. Thakur and Others dtd. 10.08.1994, the CSIR Casual Workers Absorption Scheme, 1990 was modified to cover all Casual Laborers including Casual Workers in sponsored projects engaged prior to 05.12.1988 (i.e.) date of judgment of Supreme Court in Kamallesh Kapoor's case but could not be regularized for want of regular vacancies. Accordingly, CSIR Casual Workers Absorption Scheme, 1995 was formulated as a one-time measure. The Petitioner having not fulfilled the basic requirements as enumerated in the Schemes has not been identified and listed in any scheme and hence cannot claim benefit as a Contract Worker. As per the judgment of the Supreme Court in UMA DEVI AND OTHERS Vs. SECRETARY, STATE OF KARNATAKA AND OTHERS, there is ban on regularization of the Petitioner. The claim is meritless, lacking in bonafides and deserves to be dismissed.

6. The Second Respondent claims to be a licensed Contractor under First Respondent and by virtue of formal agreement, undertook the Contract with the First Respondent for Air-Condition Maintenance from 01.03.2003. The Petitioner was engaged as a Contract Worker from 01.03.2003 and continued till 20.10.2004 and thereafter he himself

abstained from duty without intimation. He is covered under ESI and EPF Act and any injury if sustained by the Petitioner during employment, the Petitioner had to approach the ESI Hospital for treatment and not elsewhere. The claim of the Petitioner to have sustained injury during harness is not known to the Second Respondent nor the Second Respondent is liable for any such claim if at all happened prior to the engagement of the Petitioner under it. The Petitioner is engaged from 01.03.2003 till his self-abstention on 20.10.2004. Since he was covered under ESI and EPF for the period, the said contributions were remitted to the Authorities concerned. The Respondent sent a letter addressed to the Petitioner at the last known address to collect the bonus and EPF amounts but the letter returned unserved as the Petitioner was not found in the said address. There was no termination of Petitioner on 01.03.2005 as alleged by him and hence there is no question of issuing notice or payment of compensation. The Respondent has complied with all statutory rules and regulations as the Petitioner was covered under ESI and EPF. If at all he sustained any injury, the Petitioner ought to have obtained treatment at the ESI Hospital for which due remittances have been made. The Petitioner never informed the Second Respondent about the injury or the medical treatment availed by him. The claim is vexatious and deserves to be dismissed. That the First Respondent is not an industry is far-fetched. The Petitioner was in service from 1997. The Second Respondent was Contractor only from 01.03.2003. The Petitioner's salary was paid directly by the First Respondent. Eye injury was prior to coverage under ESI Act.

7. The Petitioner adduced evidence by himself as WW1 produced 13 numbers of documents, marked as Ext.W1 to Ext.W13. The First Respondent adduced evidence through Sri S. Muthukrishnan, the then the Controller of Administration. Twenty two (22) documents including the Authorization letter in favour of the witness are marked as Ext.M1 to Ext.M22. No witness was examined on behalf of the Second Respondent. No document was also filed by it.

8. **Issues for determination are:**

- (i) Whether the contract between the First and Second Respondent with regard to employment of P. Nagarajan is sham and bogus?
- (ii) If yes, whether the termination of the workman is legal and justified?
- (iii) To what relief the concerned workman is entitled?

Issues (i) & (ii)

9. Both the Issues under (i) and (ii) are interlinked inter-alia are taken up together for a convenient discussion. In view of the Hon'ble Court's direction both parties have filed their Written Submission and also advanced oral arguments on some specific points drawing attention to the evidence adduced by the respective witnesses of both parties as well as the documents exhibited thereunder.

Accordingly, during the course of hearing of argument advanced by the Learned Counsel for the Petitioner, the evidence of the Petitioner recorded by the then Presiding Officer is taken into consideration. The Petitioner is found to have adduced evidence in support of his Claim Statement which is vividly discussed in Para-3. It is claimed that he joined as Air Condition Technician under the First Respondent on 05.08.1997. It is an admitted case that the Petitioner has never attended any interview nor was issued with any Appointment Letter by the First Respondent. In this context, the documents relied by the Petitioner is taken note of. The Petitioner failed to produce any joining report. However, in support of his claim of working under the First Respondent, the Petitioner is found to have produced a bunch of documents i.e. Ext.W1 dtd. 03.05.1997 and Ext.W5 dtd. 01.06.2001 are bill showing payment of Rs. 1,000/- and Rs. 1500/- respectively in favour of the Petitioner. In this context, the counter argument advanced is that from these exhibits, it is not clear that who is the author of the Bill. The seal of the concerned office/organization do not appear on both the Exhibits. The signatures appear at the space of Head of the Division and countersigned with an endorsement as R. Thiagu as Project Director. This document does not speak for which work this bill and amount was raised in favour of the Petitioner. Ext.W2 and Ext.W3 dtd. 02.09.1998 and 26.11.1999 are the Certificates issued by the Scientist of CLRI, Sri S. Muthukrishnan in favour of the Petitioner that he was working on contract basis since 04.08.1997 in the CLRI. Ext.W6 dtd 07.08.2002 is the Certificates issued R. Thiagu, the Scientist-in-Charge states the Petitioner was working since 26.11.2009 in the CLRI. In this context, the Respondent filed Written Submission challenging the competency / authority of the Official, Sri R. Thiagu. With reference to the tender dtd 05.10.1999 of the Petitioner for the work of cleaning, painting and other support services for AC Plants, etc, the Director, CLRI, awarded the said work to the petitioner at a cost of Rs18,000 for the period from December 1999 to November 2000 @ Rs. 1500/- per month. This was conveyed to the Petitioner through the communication by the Section Officer of CLRI vide Ext.W4 dtd. 05.12.1999. Thereafter, Ext.W12 dtd. 06.03.2000 is the instruction issued by R. Thiagu to all Section Heads to allow the Contract Labourers, viz. the Petitioner and one E. Manikandan to do the cleaning and servicing work in the respective AC units. Ext W11 (from page 15 to 27) are the salary vouchers from 2/2002 to 02/2003. Ext.W13 is the extract of Work Register for the period from 01.03.2002 to 27.02.2003 of the Petitioner. It is pertinent to mention that these exhibits with regard to the approval of the tender of the work with estimated cost of Rs. 18,000/- and the letter of the Project Director to all Section Heads to allow the Petitioner and Another to work in different Sections stand undisputed not being challenged by the Respondents. Now it is to be seen if the Petitioner could prove by the above document that he was never worked under any contractor but by he First Respondent. On the contrary in order to establish the denial plea the Respondent relied on a bunch of documents. By Ext.M4 is the Form

for Opening Tender, where in the name of M/s Leena Contractor appears. Ext M5, Ext.M6 and Ext.M7 are the 3 communications in the month of January 2002 made in between First Respondent with the Contractor M/s Leena cooler Centre. Ex.M8 the Agreement executed on 01.02.2002 in between the First Respondent with Contractor M/s Leena Cooler Center. This part of contention of Respondent is supported from the self-serving documents of the Petitioner under Ext.W11- the series of salary vouchers for the period 2/2002 to 02/2003 showing the salary was paid by the named Contractor. The relevant Wage Acquittance Roll for the whole of the Finance Year commencing from Feb/March 2002 to 12.03.2003 (month wise) are produced and marked as Ext.M10 to Ext.M18. Ext.M19 is the Bonus Acquittance Bill of the said contractor. Ext.M20 is the Wage Acquittance. Ext.M21 is the letter issued by the said Contractor to director CLRI regarding the completion of the Contract on 28.02.2003 and refund of EMD was requested and Ext. M22 is the acknowledgement of receipt of the EMD. Thus it is amply evident that the Petitioner while failed establish that he joined on under the First Respondent, the aforesaid documents of both parties says he was engaged by Contractor, M/s Leena Cooler Centre .for the period 2/2002 to 2/2003. Besides, Ext.W7 dtd 07.03.2003 is the Representation of the Petitioner to the Director CLRI for his regularization is another piece to corroborate the claim of the Petitioner that he has worked under the First Respondent. However, the Petitioner failed to furnish a single scrap of document, if at all such Representation was considered by the Competent Authority of CLRI. In this context, the averment of Counter Statement of the Respondent as well as the fact mentioned in the Written Submission needs mention that such Representation was not considered as the petitioner could not full fill the Requisites. In this context, the relevant averment of the Counter Statement of the Respondent was highlighted that pursuant to the order of Apex Court in Civil Appeal No 5299-5300/93 CSIR Vs. S.P. Thakur and Others dtd. 10.08.1994, the CSIR Casual Workers Absorption Scheme, 1990 was modified to cover all Casual Laborers including Casual Workers in sponsored projects engaged prior to 05.12.1988 (i.e.) date of judgment of Supreme Court in Kamallesh Kapoor's case but could not be regularized for want of regular vacancies. Accordingly, CSIR Casual Workers Absorption Scheme, 1995 was formulated as a one-time measure. The Petitioner having not fulfilled the basic requirements as enumerated in the Schemes has not been identified and listed in any scheme and hence cannot claim benefit as a Contract Worker.

10. At the outset, it is pertinent to mention that the Petitioner in his Claim Statement though stated that he was not compensated for the injury sustained on the left eye due to an accident, he himself admitted to have been compensated by the First Respondent. It is stated that the action of non-payment of compensation under the Workmen's Compensation Act constrained the Petitioner to approach the Hon'ble High Court of Madras in W.C. 38 of 2007. The Hon'ble Court directed the First Respondent to compensate the Petitioner. The First Respondent approached the Hon'ble High Court of Madras challenging the Order in CMA No. 2294 of 2013. The Hon'ble Court dismissed the CMA which resulted in payment of compensation to the Petitioner by First Respondent in the year 2017. Neither the parties preferred to furnish the copy of the judgments. But this part of the contention of the Petitioner regarding receipt of the compensation since not disputed by the First Respondent, is accepted.

11. As such, in view of the discussion held in preceding paragraphs, even though the First Respondent tries its best to establish that there exists no employer-employee relationship in between the First Respondent and the Petitioner and the Petitioner was simply a Contract Labour but lately on the intervention of the Hon'ble High Court of Madras in CMA No. 2294 of 2013 the First Respondent discharged its liabilities as the Principal Employer by paying the compensation to the Petitioner. This fact of statement of payment of compensation by First Respondent stands undisputed not being challenged by the First Respondent itself. Thus no further liabilities can be fastened on the First Respondent

12. The Second Respondent in its Counter Statement categorically states that it has obtained necessary license under the provisions of Contract Labour (Regulation and Abolition) Act and working under the First Respondent since 01.03.2003. The Petitioner is working under it as a Contract Worker from 01.03.2003 till 20.10.2004. It is further contended that the Petitioner since abstained himself from duty, no question arose on the part of the Second Respondent to issue any prior notice or notice pay and therefore it will not attract Section-25(f) of the ID Act. The Second Respondent specific denial plea is that it is unaware of any injury on left eye if sustained by the Petitioner being hurt by a Cutting Player at the work place during 09/1998 as it is no way concerned to that period as he was not a Contract Labour under the First Respondent. It is also denied that even during the engagement of the Petitioner from 01.03.2003, no information was provided by the Petitioner if he had undergone any Cataract Operation on 20.06.2003. Besides, the Claim of the Petitioner that he had consecutively undergone 3 surgeries i.e. 22.10.2004, 10.11.2004 and 30.12.2004 for Retina Detachment is not known to the Second Respondent as no such information was ever sent by the Petitioner. At the same time, it also contended that in case of any medical emergency, the Petitioner could have approached the ESI Hospital and not any Private Hospital as much as he is covered under ESI and EPF and due contribution is made by the Second Respondent to the concerned Authorities.

13. In this context, the Counsel for the Petitioner advances argument drawing attention to the documents under exhibits relied by the Petitioner regarding his medical treatment. Owing to the injury sustained on the left eye resulting a Cataract Operation on 20.06.2003. In order to substantiate the fact, he filed two OPD tickets dtd. 25/26.07.2003 and 25.08.2003 (vide Ext.W8) of Regional Institute of Ophthalmology and Government Ophthalmic Hospital regarding the removal of the Cataract on 20.06.2003. The Director & Superintendent of the same Regional Institute issued a

Certificate vide Ext.W9 that the cataract of the Petitioner was removed on dtd. 20.06.2003 on his left eye. The Petitioner was advised to follow-up treatment till September 2004 as some medical complication developed which may lead to Retina Detachment and to undergo further treatment in any Private Hospital as no such facility is available in the said Hospital. Unfortunately, the Retina of his left eye got detached on 01.10.2004. Sri N.R. Rajagopal, the then Visiting Professor of CLRI issued a request letter vide Ext.W10 dtd. 15.10.2004 to Director of Shankar Netralaya to provide possible medical assistance to the Petitioner.

14. At the outset the argument advanced by both the parties are taken into account. It is pertinent to mention that the Second Respondent admitted its liabilities as a Contractor of First Respondent and engaged the Petitioner as Contract Labour from 01.03.2003. It also admits to have remitted the statutory contributions towards EPF and ESI towards the Petitioner. At this juncture, it is quite surprising to note when the Second Respondent when admits its liabilities and responsibilities as an Employer of the petitioner even for the limited purpose of the contract period, how it was unaware of the cause of absence of one of such Contract Labour engaged by it. Besides, it is also not understood that under what circumstance it failed to make any query regarding the absence of the Petitioner from 21.10.2004 and onwards who was regular in attending the duties from the date of his joining on 01.03.2003 till 20.10.2004.

15. Whereas on the other hand, Ext.W9 clearly shows the Petitioner had undergone Cataract Removal Surgery on 20.06.2003 at Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Egmore and advised by none else than the Director (Supdt) Dr. M. Radhakrishnan to take rest till September, 2004 and to undergo further treatment in a Private Hospital as no facility is available for further treatment as the affected Eye of the Petitioner developed complication which may lead to Retina Detachment in future. This documentary evidence has got all probative value for consideration in favour of the Petitioner even if no information was with the Second Respondent. Unfortunately, the Retina of the Left Eye of the Petitioner got detached on 01.10.2004. In this context, Ext.W10 dtd. 15.10.2004 is found to be a supporting document wherein Sri N.R. Rajagopal, the Visiting Professor of CLRI considering the gravity of the medical complication felt proper to request the Director, Sankara Nethralaya to provide all possible medical assistance to the Petitioner. Consequently, the Petitioner had undergone three consecutive surgeries on 22.10.2004, 10.11.2004 and 30.12.2004 for the treatment relating to Retina Detachment. In the circumstance, the aforesaid surgeries relating to Retina Detachment must be an emergency on the part of the Petitioner which might not have any other option other than to rush to the appropriate hospital for immediate treatment. It is well presumed that in such a situation when a person has to lose a vital part of his Body none else than an Eye, the Petitioner must have been under extreme trauma and mental stress even to think of inform the Second Respondent with immediate effect.

16. In this context, it is pertinent to mention that inference cannot be drawn always by any Employer that the absence from duties by any employee is willful, deliberate and to be termed as un-authorized / suo-moto abstention. In such circumstance, being an Employer it becomes a moral obligation on the part of the Second Respondent to find out the real cause of absence of one of his Contract Labour i.e. the Petitioner. The Second Respondent fails to produce a single scrap of document if it had taken any appropriate steps to know the real cause of the absence of the Petitioner from 21.10.2004 and onwards. In view of the documents discussed under Exhibits, it is accepted that he had undergone three consecutive surgeries i.e on 22.10.2004, 10.11.2004 and 30.12.2004. Accordingly, it is well presumed that the Petitioner might have advised to rest for three months till 01.03.2005 as it is claimed by the Petitioner, that after recovery when he wanted to join the duties on 01.03.2005, was denied. In this context, argument is well advanced by the Counsel for the Petitioner that even if the above circumstance, the Petitioner could not send any information regarding his health issue, the Second Respondent being an Employer may be for a limited purpose, was under the moral obligation at least could have given a humanitarian touch to all its employees even engaged under a Contract, as and when such situation occurs. It deems in the instant case, the Second Respondent became more mechanical than logical in its behavior, which necessarily defeats the principles of natural justice.

17. It is well presumed that from the materials borne out from the discussion held in the preceding paragraphs that only in order to shirk from the liabilities, the Petitioner was not allowed to duties terming the genuine absence of the Petitioner as Suo-Moto Abstention. At this juncture, it is pertinent to mention that both parties failed to produce any document with regard to the engagement of the Petitioner as Contract Labour for any specified period. But the admission of the Second Respondent regarding the engagement of the Petitioner on 01.03.2003 till 21.04.2004 itself says that the Petitioner was performing duties till then. The Second Respondent being the Contractor-cum-Employer never emphasizes that the Contract Period of the Petitioner was ceased on any of the day in between 21.10.2004 to 01.03.2005 which necessarily speaks that the contract for the engagement of the Petitioner was still available with the Contractor. The Petitioner should not have been thrown out from his job for the simple reason of the absence of the Petitioner which is held by this Tribunal as a genuine absence since related to a medical emergency and the period of absence should have been considered as continuity in job till 01.03.2005.

18. In view of the discussion held supra and taking into consideration the argument advanced by both parties even if the period of absence of Petitioner is calculated from 21.10.2004 and onwards will be dealt separately, it is well evident that the Petitioner has performed his duties continuously from 01.03.2003 to 20.10.2004 which is more than 240 days in a Calendar Year. The action of the Second Respondent in denying the Petitioner to join duties on 01.03.2005 without considering the absence of the Petitioner involved in a serious medical emergency is nothing but a

sheer violation of the principles of natural justice. In that case, the Petitioner could have paid with wages for the period of absence till 01.03.2005.

19. Since both parties failed to produce the Period of Contract Agreement under the Second Respondent it is held the Second Respondent is liable to pay the salary for the absence period till 01.03.2005. In this context, it is pertinent to mention that the Petitioner also failed to produce a Wage Voucher / Wage Slips / Salary Slips for the period commencing from the date 01.03.2003 till 21.04.2004 till he remained absent for the consecutive surgeries for Retina Detachment. As such, the Salary Vouchers (for the entire financial year from 02/2002 to 02/2003) under Ext.W8 filed by the Petitioner and the Respondent's document for the said financial year (Ext.M10 to Ext.M20) are taken into consideration. The documents of both the parties clearly shows that the Petitioner was disbursed with an amount of Rs. 2,018/- for the month of 02/2003. Thus, in the absence of any documents regarding the disbursement of the wage for the Contract Period commencing from 01.03.2003 to 21.04.2004, inference can be drawn that the Petitioner must have been paid wage for the above period as similar to the wages disbursed to him for the previous financial year 02/2002 to 02/2003. For a better consideration, the last wage drawn of Rs. 2,018/- disbursed in his favour for the month of 02/2003 is taken into consideration. In that case, considering the price hike and the then market status necessarily the wage of the Petitioner should have been calculated with 10% hike necessarily it will in the range of Rs.2,200-2,300/-. Besides, it is found that after return of the letter requesting the Petitioner to receive Bonus, contribution towards EPF and ESI, the Second Respondent has not taken any further steps for its disbursement. So also it is well evident, the Petitioner was not paid any amount during his absence on medical grounds. On the other hand, the Petitioner even though found to have worked for more than 240 days in a Calendar Year, the denial to duties on 01.03.2005 by the Second Respondent without prior Notice or Notice Pay necessarily comes within the ambit of Section-25(f) of the ID Act.

In the result Issue (i) and (ii) is answered in favour of the Petitioner.

Issue No. (iii)

20. In the result, the Petitioner is entitled to the relief as sought for. However, since the matter relates to 2004-2005 it must be quite impossible on the part of the Second Respondent to reinstate the Petitioner. It is held proper to direct the Second Respondent to pay a Lump Sum of Rs. 2,50,000/- in lieu of reinstatement and back wages. It is held proper to direct the Second Respondent to disburse the entitlements with regard to Bonus and the contribution towards EPF and ESI, if not disbursed.

The Issue (iii) is answered in favour of the Petitioner.

The Second Respondent is hereby directed to pay a Lump Sum of Rs. 2,50,000/- (Rupees Two lakhs fifty thousand only) be paid within a period of two months from the date of notification in the Gazette, failing which the Second Respondent is liable to pay 9% of Interest on it from the date of Order till the date of payment. The Second Respondent is further directed to disburse the Bonus, and the contribution towards EPF and ESI, if not disbursed to the Petitioner.

Before parting with the Order, it is felt proper to direct the First Respondent to take necessary steps at its end to ensure the implementation of the Order.

The ID case is Allowed

The Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner Union	:	WW1, Sri P. Nagarajan
For the 2 nd Party/Respondent	:	MW1, Sri A. Muthukrishnan

Documents Marked :

On the petitioner's side

Ext.No.	Date	Description
Ext.W1	03.05.1997	Bill issued by the Respondent for wages
Ext.W2	02.09.1998	Working and Conduct Certificate issued by the Respondent
Ext.W3	26.11.1999	Working and Conduct Certificate issued by the Respondent
Ext.W4	06.12.1999	Tender awarded in favour of the Petitioner

Ext.W5	01.06.2001	Bill issued by the Respondent for wages
Ext.W6	07.08.2002	Working and Conduct Certificate issued by the Respondent
Ext.W7	07.03.2003	Representation given by the Petitioner regarding Absorption
Ext.W8	15.07.2003	Treatment summary of the Petitioner for his eye treatment
Ext.W9	-	Certificate given by the Medical Director (RIO, GOH) regarding eye treatment for Petitioner
Ext.W10	15.10.2004	Letter given by the Respondent to Sankara Nethralaya regarding free treatment for Petitioner's eye damage
Ext.W11	-	Salary vouchers from Feb. 2002 to Feb. 2003.
Ext.W12	06.03.2003	Letter issued by Mr. Thiagu to all Section Heads regarding entry of Petitioner to all the Sections without any hindrance
Ext.W13	-	Work Register of the Petitioner from 01.03.2002 to 27.02.2003

On the Respondent's side

Ext.No.	Date	Description
Ext.M1	02.12.2009	Authorization letter given by Director, CLRI to Dr. A. Muthukrishnan to tender evidence for the case
Ext.M2	-	CSIR Bye-Laws
Ext.M3	-	Attendance Roll of CLRI A/c Department for the period Oct. 2002 to Feb. 2003
Ext.M4	-	Form for opening tenders dated 28.09.2001
Ext.M5	-	Letter dtd. 03.01.2002 from Leena Cooler Centre
Ext.M6	-	Letter dtd. 23.01.2002 from Leena Cooler Centre
Ext.M7	-	Letter dtd. 25.01.2002 from Leena Cooler Centre
Ext.M8	-	Agreement dated 01.02.2002 between M/s Leena Cooler Centre and CSIR/CLRI
Ext.M9	-	Bonus Bill of M/s Leena Cooler Centre 2002-2003
Ext.M10	-	Wage Acquittance Roll of M/s Leena Cooler Centre for Feb./March 2002
Ext.M11	-	Wage Acquittance Roll of M/s Leena Cooler Centre for April, 2002
Ext.M12	-	Wage Acquittance Roll of M/s Leena Cooler Centre for May 2002
Ext.M13	-	Wage Acquittance Roll of M/s Leena Cooler Centre for July 2002
Ext.M14	-	Wage Acquittance Roll of M/s Leena Cooler Centre

		for August 2002
Ext.M15	-	Wage Acquittance Roll of M/s Leena Cooler Centre for September 2002
Ext.M16	-	Wage Acquittance Roll of M/s Leena Cooler Centre for October 2002
Ext.M17	-	Wage Acquittance Roll of M/s Leena Cooler Centre for November 2002
Ext.M18	-	Wage Acquittance Roll of M/s Leena Cooler Centre for December 2002
Ext.M19	-	Bonus Acquittance Roll for 2002-2003 dated 24.02.2003
Ext.M20	-	Wage Acquittance Roll for February 2003
Ext.M21	-	Letter dtd. 12.03.2003 of M/s Leena Cooler Centre
Ext.M22	-	Receipt dated 12.03.2003 of M/s Leena Cooler Centre for refund of EMD.

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1396.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, सेंट्रल सिल्क बोर्ड, सेंट्रल सिल्क बोर्ड कॉम्प्लेक्स, बेंगलुरु; सचिव, सेंट्रल सिल्क बोर्ड, सेंट्रल सिल्क बोर्ड कॉम्प्लेक्स, बेंगलुरु; उप निदेशक परियोजना राष्ट्रीय रेशम उत्पादन परियोजना, केन्द्रीय रेशम बोर्ड, भेरिया डांगी, किशनगंज, के प्रबंधन के संबंध में नियोजकों और श्री सुखदेव पासवान, श्री संतोष सरकार, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, पटना पंचाट (संदर्भ संख्या 06 (C) of 2011) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 03.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-175-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1396.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 06 (C) of 2011) of the **Industrial Tribunal, Patna** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairman, Central Silk Board, Central Silk Board Complex, Bangalore; The Secretary, Central Silk Board, Central Silk Board Complex, Bangalore; The Deputy Director Project national Sericulture Project, Central Silk Board, Bheria Dangi, Kishanganj, and Shri Sukhdeo Paswan, Shri Santosh Sarkar, Worker**, which was received along with soft copy of the award by the Central Government on 03.09.2023.

[No. L-42025-07-2023-175-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**Before the Presiding Officer, Industrial Tribunal, Patna.****I.D. Case No.:- 06 (C) of 2011**

Between the workman (1) Sukhdeo Paswan, S/O- Late Banwari Paswan, Resident of village- Dangi, P.O & PS and District-Kishanganj (2) Santosh Sarkar, S/O- Late Sadhan Sarkar, Resident of Mohalla- Ruidhasa, P.O, P.S and District- Kishanganj –(Petitioners) and their management (1) The Chairman, Central Silk Board, Central Silk Board Complex, IV Floor BTM Lay out house Road, Bangalore-560068 (2) The Secretary, Central Silk Board, Central Silk Board Complex, IV Floor BTM Lay out house Road, Bangalore-560068 (3) The Deputy Director Project National Sericulture Project, Central Silk Board, Bheria Dangi, Near Block Office, Kishanganj—(Opposite Parties)

For the workman:- Sri V.N. Sahay, (Advocate)
Sri Arun Srivastava, (Advocate)
Smt. Abha Kumari, (Advocate)
For the management :- Sri Diwakar Sinha (Advocate)
Sri Rakesh Ranjan (Advocate)

Present:- **Manoj Shankar**
Presiding Officer,
Industrial Tribunal, Patna.

AWARD**Patna,dt- 11th July, 2023**

1. The present case has been filed u/s 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010 by the aforesaid workmen who seeks relief of reinstatement the workmen in service with back wages and other consequential benefits of service.

This Industrial Dispute Case is filed on behalf of the workmen Sri Sukhdeo Paswan, S/O- Late Banwari Paswan, Resident of village- Dangi, P.O & PS and District-Kishanganj and (2) Santosh Sarkar, S/O- Late Sadhan Sarkar, Resident of Mohalla- Duidhasa, P.O, P.S and District- Kishanganj –(Petitioners) before this tribunal on 18.10.2011 u/s- 1 & 2 of section 2A (Amendment) of the Industrial Dispute Act) with a prayer of their reinstatement in service with back wages and other consequential benefits of service.

Briefly stated the case of the workmen is that both the workmen had raised Industrial Dispute before the Assistant Labour Commissioner (C) Patna, Ministry of Labour, Govt. of India, Mourya Lok Complex, Patna. The conciliation officer held conciliation proceeding regarding Industrial Dispute which ended in failure on 08.07.2011 and the same report is filed by the workman vide letter dt- 05.08.2011 issued by ALC © Patna.

As per the provisions of Industrial Dispute Amendment Act, 2010 the application has been filed by the workmen for adjudication of the following dispute “ Whether the termination of services of Sri Sukhdeo Paswan and Sri Santosh Sarkar, by the management of central silk Board is proper, legal and justified? If not, what relief they are entitled to?”

The case of the workman is that workman Sri Sukhdeo Paswan was appointed as casual mazdoor from 04.08.1984 at Research Extension Centre, Kishanganj sericulture Project under Deputy Director and for his appointment his name was sent by the employment exchange. Subsequently he was transferred to the Technical Service Center at Kishanganj. It is further asserted that by office order / memorandum dated- 06.11.1992 Sukhdeo Paswan was brought under time scale of Rs. 500-10-700 w.e.f 01.09.1992 by the respondent / management no.-3 the Dy Director, Project National Sericulture Project, Central Silk Board, Bheria Dangi, Near Block Office, Kishanganj. Similarly workman / petitioner no.-2 Sri Santosh Sarkar was appointed as casual labour from 03.10.1989 and he was posted at Research Centre Kishanganj. On completion of five years as causal, workman / petitioner no.-2 by order dt-19.11.1994 confirmed as time scale employee in the scale of Rs. 500-10-700 w.e.f 03.10.1994. It is further asserted that the respondent / management Silk Board formulated a policy and decided to absorb all the time scale labourers in group D post. The said policy decision was communicated by the Assistant Secretary (Administration) of Central Silk Board to the different authorities including the Deputy Director National Silk Project (NSP) Kishanganj also. According to letter dt- 28.10.1991 appointment orders to be issued to time scale labourers working under control of respondent / management no.-3 after proper verification but respondent / management no.-3 neither issued order of absorption of the workmen / petitioners in group D post, nor send their service card etc asked by the Assistant Secretary (Administration) , it was clearly in violation of the instructions.

It is further asserted that all of sudden Secretary, Central Silk Board, Bangalore (management /respondent no.-2) issued a office order dt- 31.12.1996 terminating the services of the workmen /petitioners along with five others

persons on the closure of the CSB unit of project area NSP Kishanganj w.e.f 31.12.1996. Informing that they will be paid terminal benefits in lieu of notice as per clause (e) of section-25(F) of the I.D.Act. However, no permission for closure was applied to the Government nor any seniority list was prepared, even nor principle of last come first go was followed. It is further asserted that the junior namely (1) Sri Vijay Kumar Sahi appointed on 20.12.1984, (2) Suphal Tudu appointed on 02.11.1987, (3) Moni Gopal Sarkar appointed on 1991, (4) Gautam Hare appointed in 1992 and (5) Rajesh Kumar Gupta appointed on 01.04.1994 were retained in service.

It is further asserted that against the said termination dt-31.12.1996, the workmen / petitioners approached the Central Administrative Tribunal, Patna in OA NO.- 365 of 1997, thereafter filed CWJC No.- 386 of 2000 and LPA No.- 556 of 2009 on the legal advised, which was disposed of 12.03.2010 with a observation to move Industrial forum. It is further asserted that one of the terminated workman Sri Nawal Kumar Gupta case was referred on the direction of the Hon'ble High Court in this tribunal which is numbered Reference Case NO.- 17 (C) of 2004 in which an award was given in favour of workman Sri Nawal Kumar Gupta for reinstate his service with back wages vide award dt- 27.05.2005. The said award was challenged by the management of Silk Board in the Hon'ble High Court in CWJC & LPA which was dismissed and thereafter the workman was reinstated in service with back wages. The same facts of the workman Sri Nawal Kumar Gupta is also applicable for these petitioners / workman too.

It is further asserted that both the workman has worked more than 240 days and the mandatory provisions of 25 F was not complied as no notice pay and compensation was paid before termination. Accordingly both the petitioners /workmen are entitled to be instated in service with back wages and with other consequential benefit of service.

2. On the other hand management side filed their written statement stating therein the case of the petitioners / workmen is not maintainable either in law or in the fact and is fit to be dismissed. Admittedly both the worker / petitioners were engaged as casual labourers on daily wage basis. The minimum wage fixed by the concerned State Government for sericulture Sector was paid to labourers. It is further asserted that after completion of certain period both the workers were placed on the fixed time scale prescribed by the board with other benefits by the converting the casual labour into time scale labour but the nature of duties and responsibilities remained the same. They did not get any status of permanent post. It is further asserted that the claim of the petitioners is quite incorrect, both the petitioners / workers were casual worker they were confirmed as time scale labourer not as time scale employee. It is further asserted that the casual worker / time scale labour are not governed by Central Silk Board Act and rules rather they governed by Labour Act. Moreover, both the petitioners being a casual time labourer are not engaged for regular nature of work as being done by group-D employees of the Central Silk Board. The annexure-A shows the duties of casual labour / time scale labourer. Clearly stated time scale worker are not govern by Central Silk Board and rules but govern by labour Act. The service condition of casual labourers / time casual labourers are different from the service condition of group-D post. As the group-D employee are regular employee of the board. However, the service condition of casual labourer / time casual labourer is regulated by various labourers status like Minimum Wages Act, Payment of Wages Act, It is further asserted that Central Silk Board the management has no policy to absorb the time scale labourers to group-D rather it is subject to the availability of post as per the Central Silk Board recruitment rules. It is further asserted that the units like Technical Service Centre, Sericulture Training School and demonstration cum Training Centre were constituted under National Sericulture Project for a temporary durations and their continuance were co-terminus with the National Sericulture Project ie upto December 1996. It is further asserted that that as per the project proposal, the said centers were required to be handed over to the State Government. It is further asserted that as per the decision of handing over the technical service centers, Kishanganj the working place of petitioners and requirement for group-D post for such temporary units ceased to exist. Accordingly filling of group-D post in Central Silk Board units in Bihar was kept in abeyance and it was dropped, so there was violation of any office instruction. It is further asserted that the case of petitioner / workman no.-1 for regularization against group-D post could not be considered. As the petitioners were continued as Time Scale Farm Worker till the date of handing over the Technical Service Centre to State Government. It is further asserted that technical service centre were established under the financial assistance of National Sericulture Project and the said project was closed on 31.12.1996 as per agreement and the same was handed over to the State Government. It is further asserted that the efforts were made to transfer the labourers to concerned State Government but this could not materialize for various reasons like surplus labour strength in State Department and consequently upon closure of the units the said labourers including petitioner / workman were retrenched by paying admissible notice period wages as well as retrenchment compensation under the provision of 25-F of the Industrial Dispute Act, 1947. It is further asserted that the claim of the petitioners are the misconceived as the labaurers the workman namely (1) Vijay Prasad Sahi, (2) Suphal Tudu, (3) Rajesh Kumar Gupta, (4) Moni Gopal Sarkar, and (5) Gautam Hara have been retained in their services as they were working as labourers either in Silkworm Seed Production Centre (SSPC) or Demonstration cum Training Centre or Sericulture Training School and they were not in the non-existing technical service centre, that was closed on 31.12.1996 in which petitioner / workman were working. The units in which above labourers were working not handed over to the State Government. It is further asserted that the statement of the petitioner /workman are the misconceived as against the termination order dt- 31.12.1996. Both the petitioner /workman have filed CWJC NO.- 3861 of 2000 and LPA No.-556 of 2009 before the Hon'ble High Court, Patna. The Hon'ble High Court Patna dismissed the petition and

LPA on the ground that the petitioners were dispensed with for valid reasons and there is no any fault of Central Silk Board to retrench the workers (petitioners) after closure of the units and there was no observation to move Industrial Tribunal, Patna (Order of CWJC No.- 3861 of 2000) and (LPA No.- 556 of 2009) annexed as annexure-B). It is further asserted that the case of Sri Nawal Kumar Gupta regarding his reinstatement in his service as shown by the petitioner / workman in their statement of claim quite different as Nawal Kumar Gupta has neither received the retrenchment notice and not received one month's notice, wages and since relevant provision of section 25 F was not complied by the Central Silk Board, then Industrial Tribunal, Patna has passed the award giving relief to Sri Nawal Kumar Gupta for reinstating his service with back wages but this is not applicable to the case of petitioners / workman as both the petitioner were retrenched on 31.12.1996 upon the closure of the units and they have received admissible notice period wages as per the provision of section 25 F of the Industrial Dispute Act, 1947 photo copy of receiving retrenchment compensation letter is closed as annexure-C series. It is further asserted the petitioner /workman are not entitled to any relief as respondent Central Silk Board has acted legally while retrenching the service of petitioners /workman, upon closure of unit the management has fully complied the provision of Industrial Dispute Act.

3. Upon pleadings of both the parties this tribunal has to adjudicate “Whether the claim of the petitioners / workman for their reinstatement in the service by filling this I.D. Case directly to the Industrial Tribunal is legal valid and justified?”

4. In order to prove their claim the workman sides examined one witness namely Sukhdeo Paswan (W.W-1) the petitioner / workman no.-1) but the petitioner /workman no.-2 namely Santosh Sarkar did not come forward to depose his evidence for his claim. Besides oral evidence, some document has been filed by the workman side i.e as under:-

Ext.-W-Photo copy of the order of the Hon'ble Patna High Court dt- 13.01.2011 passed in LPA No.- 1334 of 2010.

Ext.-W/1-Memorandum of dt25.11.1992 showing the conversion of casual labourer Sukhdeo Paswan into time Central Scale Labourer.

Ext.-W/2-Memorandum of dt- 19.11.1992 issued by National Sericulture Project a unit of Central Silk Board regarding conversion of casual worker into time scale laboruers.

Ext.-W/3-Memorandum dt- 06.12.1994 regarding rectification of date of conversion from 04.10.1994 to 03.10.1994 for labour Santosh Sarkar.

Ext.-W/4-Letter of dt- 29.10.1991 issued by Joint Secretary Technical Central Silk Board regarding creation of post of attenders, chowkidar and safaiwala and absorption of time scale labourers and casual labourers at NSSP Units.

Ext.-W/5-Order of dt- 28.04.2010 passed by the Hon'ble Patna High Court in CWJC NO.- 13014 of 2005.

5. On the other hand management side examined only one witness namely Bimal Chandra Roy as M.W-1. Management side did not file any document save and except documents filed with the written statement as annexures.

6. First of all this tribunal Securitizes the evidence of the workman W.W-1 Sukhdeo Paswan. Who stated before this tribunal that he has appointed as a casual labour on 04.08.1984 at research extention centre and he worked their 4-5 years thereafter he worked in REC Sericulture Centre ie unit of Central Silk Board. This witness further stated that he has been sent to the technical service centre Kishanganj were he got time scale. This witness further stated that benefits received by him as time scale labour was as per to the benefits of permanent worker and retirement age was 53 years. This witness further stated that his technical service centre Kishanganj had received a letter from the head office for conversion of time scale laboruer into group D service but his office did not abide the instruction of the order of head office. This witness further stated that he has been retrenched from service on 31.12.1996 and besides him there were six more labaoir in the list. This witness further stated that he was called by the office on 31.12.1996 and told this units is handed over to the Bihar State Government so take pay & T.A and he has received one month pay but he did not raise any compensation. This witness further stated that the office staff reported him, his service came to end. This witness further stated that one Nawal Kumar Gupta who was also retrench by the management but this tribunal has given award in his favour reinstating his service in Reference Case No.- 04 (C) of 2004. This witness further stated that the Central Board has preferred appeal in the Hon'ble Court but did not get any success. This witness further stated that one Suphal Tudu was appointed in 1997 he still working in his unit.

In cross-examination this witness categorically stated in para-19 that he was retrenched from the service in 1996 prior to this case he has filed several cases for the claim of permanent. This witness also admits that he filed this case after so many years of his retrenchment from the service. This witness also admitted that he did not get permanent post by the office.

7. Now this tribunal securitizes management witness Vimal Chandra Roy (M.W-1) who is the project officer in the Central Silk Board. He has stated before this tribunal that Sukhdeo Paswan and Santosh Sarkar were doing as casual labourer in his unit and both were not permanent labourer. They have been retrenched from the service after proper notice and they have received one month pay. This witness further stated that both the workers were doing in NSP Project that was closed then the services of both the workers has been terminated.

In cross-examination this witness categorically stated in para-3 that he was not posted in Kishanganj in the year 1991 and simultaneously he has stated that when the unit of Kishanganj was closed then the service of both the labourers came to end. In cross-examination this witness categorically stated in para-5 that he does not know Nawal Kumar Gupta has been reinstated by the order this tribunal and he can't say Nawal Kumar Gupta was still working in unit. In para-6 of his cross-examination this witness categorically stated that after the closure of NSP Unit the services of workers has been terminated.

8. It has been argued on behalf of the workman / petitioner, Sukhdeo Paswan was appointed as casual labourer and he was serving in at technical service centre Kishanganj and he got the time scale of 500-10-700 by the management vide memorandum dt- 25.11.1992 i.e Ext.- W/1. It is further argued on behalf of the workman all of sudden by office order dt- 31.12.1996 he has been terminated from service however no permission for closure was taken from the government. It is also argued that inspite of letter issued by the head office for absorbing all the time scale labourer in group D post but NSP Kishanganj did not follow the policy. It is further argued that the compliance of section 25 F of the Industrial Dispute Act was not followed by the management in true sense. It is further argued that one terminated workman Nawal Kumar Gupta has been reinstated in his service by the order / award of this tribunal in Reference Case No.- 04(C) of 2004. The case of this petitioners is the same like the case of workman Nawal Kumar Gupta. It is further argued that the petitioner has preferred writ for his regularization and thereafter LPA No.- 556 of 2009 that was disposed by the Hon'ble High Court finally this petitioner /workman raised Industrial dispute before the Assistant Labour Commissioner (C), Patna and that ended in failure and after lapsing of 45 days from the date of filling before the conciliation officer filed this case u/s- 2A of the Act. As there is no limitation prescribed Industrial Dispute Act. The petitioner /workman has fully supported his claim vide through his evidence too.

9. On the other hand the learned counsel for the management argued that the claim of the workman / petitioner is not maintainable either in law or in facts because upon closure of NSP Kishanganj the petitioner /workman has been noticed for his termination of his service and accordingly he has been paid one month notice pay as per provision of 25 F of the I.D.Act i.e well proved by the management side. Moreover the workman Sukhdeo Paswan was a casual labourer, he was not a permanent employee of the CSB (Central Silk Board) rather upon completion of 5 years all the causal labourer has been converted into time scale labourer i.e not a permanent staff. It is further argued that after termination from the job upon closure of the unit at Kishanganj. This petitioner /workman along with Santosh Sarkar, Ranjit Kumar Das preferred writ CWJC No.-3861 of 2000 for their claim absorbing them in permanent service but the Hon'ble Court dismissed their writ holding petitioner /workman were engaged as a temporary workmen and the unit was also for temporary duration and upon closure of the project the service of the petitioner /workmen came to an ends on the basis of valid reason. Thereafter this petitioner filed LPA 556 of 2009 that was also dismissed by the Hon'ble Court. It is further argued that the petitioners /workmen raised their dispute before the Assistant Labour Commissioner(C), Patna and conciliation proceeding started on 23.06.2011 that was ended in failure in 8.7.2011. However, this petitioners directly filed this I.D Case before this tribunal on 18.10.2011 under section 1 & 2 of Section-2A of the Industrial Dispute Amendment 2010) is totally not maintainable as this section clearly says when the conciliation proceeding between the workmen and management continued more than 45 days and it is not completed even after laps of 45 days then the workman has right to file Industrial Dispute Case directly before this tribunal but the petitioner filed this I.D.Case at wrong notion i.e for which they are not entitled as per his letter dt- 05.08.2011 issued by the ALC (C) Patna filed by the workman / petitioner shows the conciliation proceeding continued only 15 days before its failure that clearly shows that conciliation proceeding was not continued for more than 45 days so filling I.D Case before this tribunal is beyond the provision of 2A of the I.D.Act. Moreover, Govt. of India, Ministry of Labour found the matter of these petitioners is not an Industrial Dispute vide its letter dt- 17.01.2012. So under the above provisions the claim of the petitioner / workmen is not maintainable, legal and justified.

10. Having gone through the case record and materials available on the record as discussed above and the submissions as advanced on behalf of both the sides, this tribunal finds that the management side at the initial stage had filed a petition regarding preliminary objection over the maintainability of this case. This tribunal heard the contention of both the sides and finally passed an order on 31.03.2015 with observation that all the issue as raised by the management regarding maintainability will be decided at the time of passing the final award. This tribunal further finds that this I.D.Case has been directly filed by the workman under section 1 & 2 of section 2A of the Industrial Dispute Amendment 2010 mentioning there in that the workman had raised their dispute before ALC (C) Patna according conciliation proceeding initiated on 23.06.2011 which ended in failure on 08.07.2011 annexing the order of ALC (C) Patna dt- 05.08.2011. This contention itself shows that the workman did not comply the spirit of section 1 &

2 of section 2A of the Industrial Dispute Amendment, 2010 as it is evident from the case of the workman that workman has filed this I.D. Case directly before this tribunal after the conclusion of conciliation proceeding and conciliation proceeding lasted only 15 days. However, sub-clause 1 & 2 of clause 2A of the I.D. Amendment, 2010 clearly says that [Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty five days from the date he has made the application to the conciliation officer of the appropriate Government for conciliation of the dispute, and on receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provision of this Act]. The workman has violated the basic provision of sub-clause 1 & 2 of section-2A of the I.D. Amendment, 2010 as workman has filed this case directly to this tribunal after 100 days after the failure of the conciliation proceeding on 08.07.2011 that shows that conciliation proceeding was not in continuing state after 45 days of conciliation proceeding when the workman filed this case directly in this tribunal hence the workmen were not entitled to file this case directly in this tribunal and at the same time this tribunal has no jurisdiction to entertain this case. This is clearly held in CWJC No.- 2053 of 2016 on 22.11.2017 and confirmed in LPA NO.- 1822 of 2017 on 17.05.2018 by the orders of the Hon'ble Court. This tribunal further finds that letter of appropriate government was issued with observation the dispute as raised by the workman can not be construed as an Industrial Dispute i.e that order is issued on 17.01.2012 by the Ministry of Labour, Govt. of India that letter is also filed by the management side. This tribunal further finds that in the instant dispute the unit of Central Silk Board, Kishanganj was closed and due to the closure of this unit, the management duly intimated to the workman about closure of unit and paid notice pay to the workman, so management has not violated any provision of the section 25 F of the I.D. Act. On that basis the Ministry of Labour has referred the dispute of the workman, upon failure of the conciliation holding the matter is not as an Industrial Dispute. This tribunal further finds that the workman side high lighted the case of Nawal Kumar Gupta who has been reinstated by this tribunal, when the matter was referred to this tribunal by the appropriate Government in the year 2004. This tribunal finds that the case of Nawal Kumar Gupta is quite different to the case of workman. The case of Nawal Kumar Gupta was referred by the appropriate government after failure of conciliation proceeding because the management side had not complied the provision of section 25 F of the I.D. Act. However, in the instant case management has complied the provision of section 25F of the I.D. Act and management has paid notice pay to the workman i.e well received by the workman side that is evident from the papers filed by the management side with the written statement. Accordingly there is no force in the contention of the workman side however management side duly established, the claim of workman is not maintainable. Upon carefully securitizing the entire materials available on record and discussions as made above, this tribunal finds and hold that the case and relief as filed by the workman side is not maintainable at all as their claim is neither proper nor legal and justified.

Accordingly the workmen is not entitled for any relief as the claim of the workmen is not maintainable. This award is effected after gazette notification / publication of award.

Accordingly, this is my award.

Dictated & Corrected by me.

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2023

का.आ. 1397.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय अधिकारी, केन्द्रीय माध्यमिक शिक्षा बोर्ड, बेली रोड, पटना (बिहार), के प्रबंधन के संबद्ध नियोजकों और श्री संजय कुमार सिंह, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, पटना पंचाट(संदर्भ संख्या 18 (C) of 2014/139 of 2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 03.09.2023 को प्राप्त हुआ था।

[सं. एल -42012/05/2013-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 5th September, 2023

S.O. 1397.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18 (C) of 2014/139 of 2013.) of the **Industrial Tribunal, Patna** as

shown in the Annexure, in the Industrial dispute between the employers in relation to **The Regional Officer, Central Board of Secondary Education, Baily Road, Patna (Bihar), and Shri Sanjay Kumar Singh, Worker**, which was received along with soft copy of the award by the Central Government on 03.09.2023.

[No. L-42012/05/2013-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No.- 18 (C) of 2014

139 of 2013

Between the management of Regional Officer, Central Board of Secondary Education, Ambika Complex Behind SBI Colony, Near Bramhsthan, Seikhpura, Baily Road, Patna (BIHAR) And Their workman Sri Sanjay Kumar Singh, C/O- Sri Baleshwar Prasad Singh, Yadav Niwas, Boudh Bihar Colony, P.O-B.H.Colony, Patna (BIHAR)-800026.

For the management:- Sri Vinay Krishna Tripathy, Advocate

For the workman:- Sri Sanjay Kumar Singh (workman himself)

Present:- **Manoj Shankar**
Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, the- 04th August, 2023

By the adjudication order no.- L-42012/05/2013-IR(DU) New Delhi, dated- 03.07.2013 the Govt. of India Ministry of Labour New Delhi has referred under clause (d) of sub-section-(1) and sub-section (2A) of section 10 of the Industrial Dispute Act, 1947,(hereinafter to be referred to as “ the Act”) the following dispute between the management of Regional Officer, Central Board of Secondary Education, Ambika Complex Behind SBI Colony, Near Bramhsthan, Seikhpura, Baily Road, Patna (BIHAR) And Their workman Sri Sanjay Kumar Singh, C/O- Sri Baleshwar Prasad Singh, Yadav Niwas, Boudh Bihar Colony, P.O-B.H.Colony, Patna (BIHAR)-800026 for adjudication to the Central Government Industrial tribunal – cum- Labour Court No-2 Dhanbad.

SCHEDULE

“Whether the action of the management of Central Board of Secondary Education, Patna to terminate the service of Shri Sanjay Kumar Singh, w.e.f. 20.03.2012 is valid? To what relief the concerned workman is entitled?”

2. Vide order no.- L-42012/05/2013-IR(DU) New Delhi, dated- 03.07.2013 the Govt. of India Ministry of Labour the dispute between employer Central Board of Secondary Education, and their workman Sri Sanjay Kumar Singh referred the dispute initially to the Central Government Industrial tribunal – cum- Labour Court No-2 Dhanbad exercising the power confined by clause (d) of sub-section-(1) and sub-section (2A) of section 10 of the Industrial Dispute Act, 1947. To adjudicate the dispute with the schedule-

SCHEDULE

“Whether the action of the management of Central Board of Secondary Education, Patna to terminate the service of Shri Sanjay Kumar Singh, w.e.f. 20.03.2012 is valid? To what relief the concerned workman is entitled?”

It is pertinent to note that the case registered as Reference Case No.- 139 of 2013 in the Central Government Industrial tribunal – cum- Labour Court No-2Dhanbad later on this reference case is transferred to this tribunal vide order no.- Z-25025/4/2014-CLS-11, Govt. of India / Bhart Sarkar, Ministry of Labour and Employment, Shram aur Rozgar Mantralaya dt- 7th may, 2014. In the light of aforesaid order no. Central Government Industrial tribunal – cum- Labour Court No-2Dhanbad has sent the record of Reference Case No.- 139 of 2013 through letter no.- LCT1/2014/901 dt-15th September, 2014 to the Industrial Tribunal, Patna for disposal. Accordingly this tribunal registered this case as Reference Case No.- 18(C)of 2014.

3. Briefly stated the claim of the workman is that the workman Sri Sanjay Kumar Singh was temporarily appointed by the management of Central Board of Secondary Education as a Head Assistant w.e.f. 16.03.2011 for a period of three month's. After appointment of the post of Head Assistant on 16.03.2011, the workman was instructed to work as Head Assistant on the consolidated salary of Rs. 13500/- per month up to 28.02.2012. It is further asserted that after a sudden death of his father on 28.02.2012, the workman submitted his leave application with a prayer to grant leave upto 19.03.2012 for performing the Shradh Ceremony and other rituals of his late father. It is further asserted that when the workman reported for duty on 20.03.2012 after completion of Shradh Ceremony of his father, he was prevented from working and putting his attendance on the attendance register and the management informed that his service is terminated. It is further asserted that after getting the information of his termination, the workman met with the Higher Authorities of CBSE (Management) for his reinstatement but of no avail. It is further asserted that finding no scope of redressal of his grievances, the workman raised the Industrial Dispute before the Regional Labour Commissioner (Central) Patna vide letter dt- 05.05.201. On his complaint the Regional Labour Commissioner (Central) Patna issued notice to the workman and management and tried to settle the dispute but the conciliation proceeding ended in failure. Accordingly, Regional Labour Commissioner (Central) Patna sent a failure conciliation report to the Ministry of Labour, Govt. of India, New Delhi and then appropriate Govt. referred the dispute for adjudication. It is further asserted that there were four sanctioned posts of Head Assistant of CBSE (R.O) out of which the workman had been appointed for one post. The post of Head Assistant is till lying vacant in CBSE (R.O) Patna. It is further asserted that the workman did not commit any misconduct and he was simply terminated when he was on leave. The workman worked for more than 240 days uninterruptedly preceding his termination so the termination of workman covered u/s- 2(OO) of the Industrial Dispute Act, 1947. Moreover, management violated the mandatory provision of section 25(F) of the Industrial Dispute Act, 1947. It is further asserted that the duties of the workman were perennial in nature and were identical to that of a permanent Head Assistant of CBSE. It is also asserted that management did not follow the principles of 'Equal pay for Equal work as per article 39 (d) of the Indian Constitution. Moreover, the management resorted the unfair labour practice. So action of the management for terminating the services of the workman is neither valid nor justified. So the workman prays for relief:-

- (i) To reinstatement as Head Assistant with back wages.
- (ii) Regularisation of his services as Head Assistant against a sanctioned post.
- (iii) Payment of a sum of Rs. 10,000/- as cost for contesting the dispute.
- (iv) Any other relief (S) as the Hon'ble Tribunal deems fit and proper.

4. On the other hand management filed written statement and mentioned therein, the statement of claim as framed by the workman is not maintainable at all. Moreover his claim suffers from estoppel, acquiescence and waiver. It is further asserted that the claim of the workman regarding arrears of his daily wages was conciliate and a sum of Rs. 1095/- was paid by the management side in presence of Assistant Labour Commissioner (Central) and workman acknowledged the receipt. It is further asserted that claim suffers from the defect of parties as CBSE at New Delhi has not been impleaded as a party and the Regional office of CBSE at Patna has wrongly been impleaded because it is a mere branch as the CBSE, New Delhi. Which has all pervasive control over the functioning of its Regional Offices. The management side has mentioned the details of function of CBSE and its constitutions and the major activities and objections in the written statement. It is further asserted that the management is not an industry within the meaning of provision of section 2(J) of the Industrial Dispute Act, 1947. As the management is an educational institution and it is not related in production and the distribution of goods of services so it does not satisfy the 3rd ingredient of section of 2(J) of the I.D.act. So CBSE is not an industry at all. It is also asserted that this is not a case of retrenchment as defined u/s-2(OO) of the I.D.Act. it is further asserted that the Regional office at Patna was still going through inception stage, the Board decided to introduce continuance comprehensive Evaluation (CCE) system as a national policy whereunder the student of class X were to be given grades and not marks. This extensive work occasioned extra engagement of some staff of contractual basis for 3 months accordingly an advertisement was notified for 'Walk in interview' in Newspapers in response were to many including the claimant Sanjay Kumar Singh who participated interview and he was selected for Head Assistant on contractual basis for 3 months. Accordingly workman Sanjay Kumar Singh executed and agreement to the aforesaid effect on 16.03.2011 and joined the duty on 16.03.2011 itself on a consolidated fixed pay of Rs. 13500/- for Head Assistant for 3 months. It is further asserted that when the said work was not over, the workman Sanjay Kumar Singh like others was again engaged for another 3 months by the management on 16.06.2011 to 15.09.2011 on the same contractual basis for same consolidated fixed pay Rs. 13500/-. It is further asserted that other cessation of the aforesaid contractual engagement of 16.03.2011 to 15.09.2011, Sanjay Kumar Singh offered himself and requested for engagement as daily wages worker for other works. It is further asserted that in view of some other works, other than the aforesaid CCE scheme, the Regional Office, Patna accepted his offer accordingly the workman was engaged as a daily wages worker on minimum wages prescribed for clerk on 16.09.2011. It is further asserted that the workman started working as daily wages clerk and he gave his duty :-

- | | | |
|------|----------------|--------|
| (i) | September-2011 | 15days |
| (ii) | October-2011 | 27days |

(iii)	November-2011	29days
(iv)	Decemnr-2011	30days
(v)	January-2012	29days
vi)	February-2012	22days
Total-		152days

It is further asserted that daily wages engagement of Sanjay Kumar Singh and two other persons was valid only till 31.03.2012 but Sanjay Kumar Singh left the job after 22.02.2012. It is further asserted that while workman Sanjay Kumar Singh was still working as a daily wage worker, the Regional Office issued a tender for housekeeping arrangement for Regional Office at Patna. Sanjay Kumar Singh the workman was well aware of the facts that is even daily wages engagement would end on 31.03.2012 and he found the work of housekeeping more profitable so workman has submitted his tender in the name of Swatchh Patliputra Bihar. His tender was selected by the committee and thus accepted. It is further asserted that after getting a housekeeping, the workman did not take interest in his official job and finally he left the job on 22.02.2012 and workman was paid for entire period of his work. It is further asserted that the claim of the workman is totally wrong and baseless. The workman has sent the leave application on account of the death of his father on 28.02.2012. The management was not aware about the death of father of the workman moreover daily wage worker was not entitled for any leave. So there was no question preventing him to work and putting his attendance on attendance register. It is further asserted that after getting housekeeping work and much after 22.02.2012 when workman left the job of daily worker, being an Advocate decided weave out a litigational story and thus raised a wrong stale dispute under the I.D.Act,1947. It is further asserted that Sanjay Kumar Singh the workman is not only duly enrolled an Advocate he is a regular legal practitioner too and even when he was under engagement of Regional Office, Patna, used to render the legal services to his clients in Patna High Court as a member of Advocate Association and also in Lawyer's Chamber no.-1. It is further asserted that on 02.12.2014 the workman Sanjay Kumar Singh has copy of many documents and most of them apparently appear to be copy of the original records of Regional Office which the Sanjay Kumar Singh unauthorisedly smuggled out without permission of the Regional Office. It is further asserted that Sanjay Kumar Singh was never appointed as permanent staff. He was appointed on contract basis on the agreement duly executed by him and worked as contract worker on the post of Head Assistant from 16.03.2011 to 15.09.2011 thereafter he was engaged as a daily wages worker from 16.09.2011 and finally he suo moto left the job from 23.02.2012. It is further asserted that process of permanent appointment is governed by the service rules of the Board and is not done by mere interview. Total days work of Sanjay Kumar Singh performed from 16.09.2011 to 22.02.2012 is 152 days and thus he was not a workman within the meaning of section 2(oo) of the I.D.Act, 1947 and section 25(F) is not attracted at all. It is further asserted that Sanjay Kumar Singh was paid his remuneration as per agreement of 6 months and thereafter he received the minimum wage for his daily worker. So the claim of the workman is not sustainable at all.

5. On the basis rival pleadings the points for determination is :-

- (a) "Whether the management of CBSE is an industry under the provision of section-2(J) of the I.D.Act."
- (b) "Whether the management CBSE Regional Office, Patna violated the provision of section 2(oo) and 25(F) of the I.D.Act."
- (c) "Whether the action of the management of Central Board of Secondary Education, Patna to terminate the service of Shri Sanjay Kumar Singh, w.e.f. 20.03.2012 is valid? To what relief the concerned workman is entitled?"

FINDINGS

6. In oder to counter The claim of workman Sanjay Kumar Singh, the management examined altogather four witnesses namely M.W-1 (Shambhu Kant Ray), M.W-2(Rajpal Singh), M.W-3 (Shambhu Prasad) and M.W-4 (Ranjit Kumar). Besides oral evidence the management side filed some documents and the same has been marked as Extx:-

- (i) Ext.-M- Photo copy of walk in interview advertisement publish in Dainik Jagaran dt- 24.02.2011(Waived by the workman).
- (ii) Ext.-M/1- Photo copy of letter dt-11.03.2011 for the post of Head Assistant on contract basis for three months. (Waived by the workman)
- (iii) Ext.-M/2- Photo copy of agreement signed by Dr. Sanjay Kumar Singh (Workman) for engagement as HeadAssistant on contract basis for three months. (Waived by the workman).

- (iv) Ext.-M/3- Photo copy of joining report to the post of Head Assistant dt-16.03.2011 (Waived by the workman).
- (v) Ext.-M/4- Photo copy of visiting card of Dr Sanjay KumarSingh as practicing advocate. (Waived by the workman).
- (vi) Ext.-M/5- Photo copy of cash of amount Rs. 1050/- regarding arrear of wage for 15 days i.e 16.09.2011 to 30.09.2011 (Waived by the workman).
- (vii) Ext.-M/6- Photo copy of order dt-25.03.2011 regarding minimum wage issued by Govt. of India, Ministry of Labour & Employment, New Delhi dt-25.03.2011 (Waived by the workman)
- (viii) Ext.-M/7- Letter dt-31.05.2012 written by J.K.Yadav, Dy. Secretary, to M/S Swatchh Patliputra Bihar, Bahadurpur Housing Colony, Kankarbagh, Patna, Bihar regarding work order for commencing housekeeper services w.e.1st June,2012. (Waived by the workman)
- (ix) Ext.-M/8- Office notes & order of CBSE dt-17.07.2012 regarding permission refunding D. Amount Rs. 10,000/- (Waived by the workman)
- (x) Ext.-M/9- Photo copy of agreement in between workman Dr.Sanjay Kumar Singh and S.U.Sorte, Joint Secretary / Regional Office, CBSE, Regional Office, Patna-1 on 30.05.2012 (Waived by the workman).
- (xi) Ext.-M/10- Advertisement in the news paper Dainik Jagaran dt-12.02.2012 regarding short term limited tender (Waived by the workman)
- (xii) Ext.-M/11- Photo copy of letter dt- 29.10.2013 issued by CBSE Assistant Secretary written to the Proprietor / Manager, M/S Swatchh Patliputra Bihar regarding payment for the month of July 2013 for cleaning and sweeping services. (Waived by the workman).
- (xiii) Ext.-M/12- Cash receipt by the workman Anita Devi, Zarina etc dt- 16.09.2013 and also signed on cash receipt by the Dr.Sanjay Kumar Singh(Secretary) (Waived by the workman).
- (xiv) Ext.-M/13- letter dt-14.11.2013 written by Dr. Sanjay Kumar Singh (Secretary) to the (Assistant Secretary) CBSE (Waived by the workman)

7. On the other hand the workman side examined just one witness namely W.W-1 (Sanjay Kumar Singh) workman himself. Besides oral evidence workman filed some documents and same is marked as Ext.:-

- (i) Ext.-W- Appointment letter dt-11.03.2011 signed by M.V.V Prasada Rao, Regional Officer (With objection)
- (ii) Ext.-W/1- Recalculated Statement of salary of staff on contract for the month of March-2011 issued by CBSE dt-08.04.2011 (With objection)
- (iii) Ext.-W/2- basis Statement of various for engagement on contractual have worked from the month of April-2011 dt-02.05.2011 (With objection)
- (iv) Ext.- W/3- Office notes regarding payment dt-01.06.2011 (With objection)
- (v) Ext.-W/4- Salary of CCE Staff for the month of June-2011 (With objection)
- (vi) Ext.-W/5- & Ext.- W/5-1 Salary to CCE Staff for the month of July-2011 and August-2011 (With objection)
- (vii) Ext.-W/6- Salary to CCE Staff for the month of Septemebre,2011 (With objection)
- (viii) Ext.-W/7- Order of the R.O on pre page during the month of Septemebr,2011 issued on 14.10.2011(With objection)
- (ix) Ext.-W/8- Sanction letter dt- 04.11.2011 (With objection)
- (x) Ext.-W/9- Payment of wages of daily wages / causal workers for attending office in the month

- of October-2011 issued on 01.11.2011 (With objection)
- (xi) Ext.-W/10- Payment of wages of daily wages / casual workers for attending office in th month of Novmeber-2011 issued on 02.12.2011 (With objection)
- (xii) Ext.-W/11- Crediting of salary for the month of January-2012 issued on 07.02.2011 (With objection)
- (xiii) Ext.-W/12- Crediting of salary for the month of February-2012 issued on 16.03.2012. (With objection)
- (xiv) Ext.-W/13- Photo copy of Attendance register for the month of March-2011 to February,2012 (With objection)
- (xv) Ext.-W/14- Leave application written by Dr. Sanjay Kumar Singh given to the Regional Officer, CBSE on 27.02.2012 (With objection).
- (xvi) Ext.-W/15- Letter dt- 21.03.2012 regarding re-employment written by Dr. Sanjay Kumar Singh, given to the Regional Officer, CBSE (With objection)
- (xvii) Ext.-W/16- Indent for issue of Store items for the month of December-2011 dt-26.12.2011 (With objection)
- (xviii) Ext.-W/17- Death Certificate of Baleshwar Pd. Issued dt-05.03.2011
- (xix) Ext.-W/18- Letter dt- 03.06.2011 appointment at CBSE, R.O, Patna on contractual basis for CCE purpose

8. Now this tribunal scrutinizes evidence of management side M.W-1 (Shambhu Kant Ray) who is employee of CBSE Regional Office, Patna. Who stated before this tribunal he has been transferred from Delhi and he started working in the Regional Office of Patna from 1st September,2008. This witness also stated that about 15,000 (Fifteen Thousand) schools in India are affiliated to the CBSE Board and MHRD is the controlling authority of CBSE. This witness further stated that CBSE is not a earning organization. CBSE has no any production and distribution of goods rather CBSE conducted different types of examination only. This witness further stated that in the year 2010 CBSE introduced CCE system giving rise in the work load of Regional Office including Patna office. Accordingly CBSE head quarter directed all the Regional office to engage employees on contract basis for three months. This witness further stated that Patna office too advertised a Walk-in-interview in Newspaper and after interview 10 persons were selected at different post including Sanjay Kumar Singh. Sanjay Kumar Singh was engaged on consolidated monthly remuneration of Rs. 13,500/- and he joined as head assistant on 16.03.2011. This witness further stated that his terms expired on 15.06.2011 but he got another extention for three months and the 2nd terms expired on 15.09.2011 thereafter Sanjay Kumar Singh ceased to be contractual staff as head assistant. This witness further stated that on request of Sanjay Kumar Singh (Workman) he was engaged as daily wage worker doing the work of clerk on minimum wages and he also left the job on 23.02.2012. This witness further stated that on 12.02.2012 tender notice for engagement of Housekeeping work was invited, Sanjay Kumar Singh the worker also submitted his tender and his tender was selected. This witness further stated that housekeeping work under taken by Sanjay Kumar Singh came and to an end in 2013. This witness further stated that no other person engaged as daily wagger along with Sanjay Kumar Singh has any dispute. This witness also stated that Sanjay Kumar Singh never informed to the Regional Office, Patna that he is practicing Advocate in Civil Court Patna & High Court Patna and his Advocate office was Advocate chamber at Yadav Niwas, Budh Vihar Colony, Bhootnath Road, Patna-26. This witness further stated that the papers submitted by the Sanjay Kumar Singh in this case has been taken by him from Regional Office, Patna without any permission. This witness further stated that at the time concillation before the Assistant Labour Commissioner (C), Patna paid Rs. 1095/- to Sanjay Kumar Singh on 10.07.2012 in the presence of ALC (C), Patna. In cross-examination this witness categorically stated that in para-25 that the contractual service of the Sanjay Kumar Singh was put to end on 15.09.2011 after 15.09.2011 Sanjay Kumar Singh was allowed to work on daily wagger on his request. In para-26 of the cross-examination of this witness admitted that Sanjay Kumar Singh worked as a daily wage worker from 22.02.2012. In para-27 of the cross-examination this witness categorically stated that Sanjay Kumar Singh has signed and agreement and filed undertaking at the time of joining service on contractual basis. In para-29 of cross-examination he stated that due to exigency of work Sanjay Kumar Singh was allowed to work on daily basis. In para-30 of cross-examination this witness categorically denied any leave petition has been filed by the Sanjay Kumar Singh about his death of his father in the office. In para-32 of cross-examination this witness categorically stated that there is no need of approval for causal worker engaged on the exigency of work.

9. M.W-2 Rajpal Singh is employee of Regional Office CBSE Patna. Who stated before this tribunal that he joined the Regional Office Patna on transfer on 3rd February,2012 as section officer. He also admitted this facts there

is 15,000 school in India affiliated with CBSE and MHRD is controlling authority of the CBSE. This witness also stated that CCE system was introduced in the year 2010 and accordingly CBSE head quarter directed all the Regional Offices to engaged employee on contractual on three months. This witness further stated that Sanjay Kumar Singh was working as a daily wager on minimum wages and during his tenure is suo - moto left the job on 23.02.2012 and Sanjay Kumar Singh had received minimum wages upto 22.02.2012. This witness also stated that a tender notice was flagged on 12th February, 2012 for the engagement of housekeeping in the CBSE. Sanjay Kumar Singh also submitted his tender and he was selected. This witness also stated that no other person as a daily wager excepted Sanjay Kumar Singh has raised any dispute. This witness also stated that housekeeping work undertaking by Sanjay Kumar Singh came to end in the year 2013. This witness further stated that Sanjay Kumar Singh never informed to Regional Office, Patna that he is a practicing Advocate in Civil Court, Patna & High Court, Patna.

In cross-examination this witness categorically stated that in para-18 he was working in his office. This witness categorically stated that Sanjay Kumar Singh was the daily wager when he joined the CBSE Patna on 03.02.2012. In para-19 of cross-examination this witness categorically stated that he does not remember the father of Sanjay Kumar Singh died during his tenure it can be said only after verifying the file. In para-21 of the cross-examination this witness categorically stated that he was not the section officer of the department of Sanjay Kumar Singh so he cannot say how many persons were appointed along with Sanjay Kumar Singh.

10. M.W-3 Shambhu Prasad the employee of Regional Office, CBSE Patna who also narrated the same facts about the CBSE as narrated by M.W-1 & 2 in their evidence. This witness further stated that Sanjay Kumar Singh joined the CBSE office on 16.03.2011 on contractual basis for fixed remuneration of Rs. 13,500/- and his terms for service is expired on 15.06.2011 but his service was extended for another three months and that was expired on 15.09.2011 thereafter Sanjay Kumar Singh ceased to be a contractual staff as head assistant. This witness also stated that after was Sanjay Kumar Singh started as working daily wager on minimum wages and he left the job on 23.02.2012.

In cross-examination this witness categorically stated in para-17 that Sanjay Kumar Singh was appointed initially for three months on contractual basis and he got another extension for three months on contractual basis. In para-19 this witness categorically stated that Sanjay Kumar Singh never worked in the examination section and he does not know Sanjay Kumar Singh has worked in CCE.

11. M.W-4 Ranjit Kumar is the employee of Regional Office, CBSE of Patna and he was working there from 17th Novemembr, 2008. This witness also narrated the same facts about the CBSE and the about the number of affiliated school whatever narrated by M.W-1 & 2 in their evidence before this tribunal. He also supported the version of M.W-1 & 2 regarding contractual working of Sanjay Kumar Singh from 16.03.2011 to 15.06.2011 on fixed remuneration and thereafter Sanjay Kumar Singh got extension for three months that was ended on 15.09.2011. This witness also supported the facts of Sanjay Kumar Singh also worked as daily wager on minimum wages and he left the job on 23.02.2012.

In cross-examination this witness categorically stated that in para-17 that Sanjay Kumar Singh was appointed by Board on contractual basis after publishing and advertisement and Sanjay Kumar Singh was appointed as head assistant in CCE section. This witness also admitted in para-18 of his cross-examination that after extension of his contractual work Sanjay Kumar Singh worked as daily wager in another section and he got work of daily wage on verbal request. In para-21 of his cross-examination Sanjay Kumar Singh left the job suo-moto and in para-22 of his cross-examination this witness categorically stated that Sanjay Kumar Singh has worked for six months on contractual and thereafter he worked as a daily wager for five months.

12. On the other hand workman side examined Sanjay Kumar Singh as W.W-1 the workman himself. Who is stated that in examination-in-chief he was temporarily appointed by the management CBSE as head assistant w.e.f 16.03.2011 for a period of three months and he was getting consolidated salary Rs. 13,500/- per month upto 28.02.2012. This witness further stated that initially he was appointed for three months thereafter his service was verbally extended. It witness further stated that his father is died on 19.02.2012 accordingly he submitted his leave application with a prayer of grant leave up to 19.03.2012 for performing the Shardh and other rituals. This witness further stated that after completion of shradh ceremony and other rituals of his father he reported his office on 20.03.2012 but he was prevented for working and he was informed his service stood terminated then he met higher authorities of the CBSE for his reinstatement but he could not succeed. This witness further stated that neither any notice, nor any notice pay, nor any retrenchment compensation were given to him. This witness further stated that the basis of head assistant is still lying vacant at CBSE, R.O Patna. This witness further stated that he has work for more than 240 days preceding his termination. Accordingly management resorted the unfair labour practice. So his claim for reinstatement is legal and justified. This witness further stated that he has file 17 documents including the death certificate of his father and all the documents are proper and document got to be marked Exts.-W to W/17. Other side marked its objection to all the documents excepting the death certificate of his father.

In cross-examination this witness admitted that he filed his affidavit in English version he did not read out his statement of claim and written statement of the management side. In para-20 of his cross-examination this witness admitted that at the time of interview he had not disclosed he was practicing an Advocate because this question was

not put to me. He also admitted that he has not taken prior permission from Bar Council prior to join. In para-21 of cross-examination this witness admits that he has put signature on the agreement paper that in which it was mentioned that his service for three months on consolidated pay Rs. 13,500/-. This witness also stated in para-21 that his agreement for the job was not extended however he worked up to 27.02.2012 and he did not get Rs. 13,500/- rather he got less salary. This witness denied in para-22 of cross-examination this is wrong to say that he was engaged as daily wager on minimum wages from 16.09.2011. In para 23 of the cross-examination this witness admits that his name Sanjay Kumar Singh denoting DW clerk is shown in the attendance register in the month of October-2011, November-2011 and January-2012 and he is put signature on the attendance register i.e Ext.-W/13. In para-24 of his cross-examination this witness admits that his attendance is clear from the attendance register of November-2011, i.e 16th September, 2011 and his name is written as Sanjay Kumar Singh denoting DW Clerk i.e Ext.-W/13. In para-25 of cross-examination this witness proved the letter no.- CBSE/RO/PTN.DS/2011 dt-03.06.2011 i.e forwarded by K.K.Jain, Dy. Secretary in which the list of contractual employee is shown the serial no.-2 denotes his name i.e Ext.-W/18. In para-26 of the cross-examination this witness categorically stated that as per Ext.-W/4 his service has been ended on 15.06.2011 and as per Ext.-W/4 is payment was made upto June-2011. This witness also admits that vide Ext.-W/5 & W/5A he has got payment of July-2011 and August-2011. In para-27 of cross-examination this witness admits as per Ext.-W/6 he got payment of Rs. 6750/- i.e upto 15.09.2011 and he admits that Ext.-W/4 to W/6 is the documents of payment for his contractual service. In para-28 of the cross examination this witness admits that his Ext.-W/7 shown the employees of daily wager in which his name is shown at serial no.-6 and he got payment of Rs. 3000/- for his daily wager work from 16.09.2011 to 30.09.2011. In para-29 of cross-examination this witness categorically admits that he got Rs.200/- per day. In para-30 of cross-examination this witness admits that as per Ext.-W/5 he raised the due payment of Rs. 1095/- from Regional Office CBSE Patna of the period of 16.09.2011 to 30.09.2011 on 10th July, 2012. This witness also admits that he got payment of daily wager. In para-31 of cross-examination this witness admits that his Ext.-W/15 clearly shows, he was working as daily wage clerk. In para-32 of cross-examination this witness admits that after leaving the service he was attached with CBSE through NGO. In para-33 of cross-examination this witness admits that Ext.-M/10 is the documents of housekeeping tender and that tender was filled by NGO and he was the Secretary that NGO.

13. It is argued from the management side that the claim of the workman is not maintainable at all. It is argued from the management side that CBSE Regional Office, Patna does not come under the purview of an industry as per section 2(J) of the I.D.Act because CBSE is not involved in any kind of production and sale of any goods. It is also argued that the workman was temporarily appointed as head assistant on contractual basis initially for three months and he got another three months extension, accordingly his contractual services came to end on 15.09.2011 i.e duly established by the oral evidence and documentary evidence placed by the management side i.e Ext.- M, M/1, and M/2. It is further argued that the workman Sanjay Kumar Singh was engaged in Regional Office, of CBSE, Patna on daily wages basis verbally on his request and he was getting payment of Rs. 200/- per day and he left the daily wage job on 22.02.2012 because he has applied a tender on behalf of the NGO M/S Swatchh Patliputra Bihar, for the housekeeping and cleaning of the office and his tender was selected i.e evident from the management documents through Ext.- M/7, M/9, M/10, M/11, M/12 and M/13. It is further argued that workman never gave his duty as a daily wages worker more than 240 days rather he gave his duty as a daily wage worker only 152 days for which he has already got the payment i.e evident from the workman's document through Ext.- W/9, W/10, W/11, W/12. It is further argued that the workman did not come up with fair hand as he suppressed of these facts in his statement of claim. It is also argued that the workman was practicing Advocate in Civil Court and Hingh Court this facts is also conceded by the workman before the CBSE administration and before this tribunal too. It is further argued that claim of the workman is also frustrated by his evidence itself. It is further argued that the management witness thoroughly discarded the claim of the workman through his three witnesses and by documentary evidence accordingly workman is not entitled for any relief.

14. On the other hand it is argued on behalf of the workman side that the workman Sanjay Kumar Singh initially appointed as a head assistant on contractual basis by the Regional Office, of CBSE, Patna and he worked from 16.03.2011 to 15.06.2011 and he was getting Rs. 13,500/- per months as a consolidated salary. It is further argued that his term has been extended another three months by the Regional Office, CBSE, Patna from 16.06.2011 to 15.09.2011. It is further argued that the workman was again engaged in the Regional Office of CBSE, Patna and in the month of February, 2012, his father died and for observing shradh ceremony. The workman filed his leave application on 27.02.2012 for upto 19.03.2012 but when he came to join on 20.03.2012 workman was prevented to continue his service. It is further argued that the workman has discharged his duties as a temporary contractual head assistant for six months and thereafter he was engaged in clerical service job accordingly he has worked about 355 days thus he worked continuously more than 240 days in 12 calendar months in one preceding year and so the management side violated the mandatory provision of section 25(F) of the I.D.Act and there by management side did unfair labour practice as per provision of section 25(T) of the I.D.Act too. It is further argued that the management is industry as section 2(J) as management CBSE also involved in publishing and selling the books of different subject. So the management claim of CBSE does not come under the purview of section 2(J) is totally wrong. It is further argued that the workman has not been informed prior to termination his duty however, he has given a leave application upon death of his father on 27.02.2012 i.e evident vide Ext.- W/14 but he was not allowed to resume his duty and he again filed a petition before the Regional Office of CBSE, Patna on 21.03.2012 his reinstatement of his job i.e Ext.-W/15 but he

was not allowed and thus the action of the management was not justified and legal in terminating the service of the workman.

15. Having gone through all the facts and circumstances of the case and submissions as advanced on behalf of the both the sides, this tribunal finds that the workman Sanjay Kumar Singh was initially appointed as head assistant on contractual basis for three months by Regional Office of CBSE, Patna and after expiry of three months period on 15.06.2011. Due to urgency of work of the CCE scheme, Regional Office of CBSE, Patna gave another three months extension to the workman Sanjay Kumar Singh. It is further argued that the workman was drawing consolidated salary Rs. 13,500/- per months i.e establish by the Ext.-W/3, W/4, W/5 and W/6. These Exts show that the workman Sanjay Kumar Singh has received Rs. 13,500/- per months from March-2011 to September-2011 along with other nine temporary contractual workers appointed by the Regional Office of CBSE, Patna. This tribunal further finds that the workman started working as a daily wage worker from October-2011 @ Rs. 200/- per day. This tribunal also finds that the workman got the payment of daily wage worker for his duties from the Regional Office of CBSE Patna i.e evident from Ext.-W/7, W/8, W/9. This tribunal further finds that from November-2011 he daily wage rate has been enhanced from Rs.200/- to Rs.277/- per days and Sanjay Kumar Singh received the payment from November-2011 to February-2012 @ Rs. 273/- per day i.e evident from Ext.- W/10, W/11, and W/12. This tribunal further finds that this very facts regarding working as a daily wagger is concealed by the workman himself in his statement of claim as workman categorically mentioned in statement of claim, he was appointed for the post of head assistant w.e.f 16.03.2011 on a consolidated salary Rs. 13,500/- per months up to 28.02.2012. However his documents frustrated his claim as mentioned in the statement of claim, because his documents shows that he was working as a daily wage worker in the Regional Office of CBSE, Patna from 2nd half of September-2011 to February-2012 and he left the job suo-moto. Accordingly this tribunal finds and hold that the workman himself did not come up with clean and fair hand rather he suppressed the real facts. This tribunal further finds that the version of management side, the Regional Office of CBSE, Patna does not came under the purview of industry as per section-2(J) of the I.D.Act is not sustainable because CBSE is also involved in publishing of books of different subjects and supplied the books for sale activity. Thus CBSE satisfies the ingredient of industry as per section-2(J) of the I.D.Act. This tribunal further finds that the workman was a simple a temporary head assistant as per agreement and his service of temporary head assistant came to end of 15.09.2011. Thereafter, then workman started the working as a daily wage worker, he gave his service as daily wage worker in Regional Office of CBSE, Patna only 152 days i.e established by the management by oral as well as documentary evidence and the workman himself proved this facts through his documentary evidence. Accordingly management did not commit any violation of section 25(F) of the I.D.Act. So this tribunal finds no force in the contention of the workman side. On perusal of the entire material available on record this tribunal finds that the workman was secretary of NGO M/S Swatchh Patliputra Bihar and when a tender for housekeeping work is advertised by the Regional Office of CBSE, Patna. This workman, being the secretary of NGO, has also filed his tender for housekeeping work in Regional Office of CBSE, Patna and his tender was selected that tender was advertised on 12.02.2012 in Dainik Jagran news paper i.e evident Ext. M/10 but the workman is concealed this facts, more over when he applied for this tender, he suo-moto left the job of daily wage from 23.02.2012 and started giving service of housekeeping from his NGO i.e evident by the management side through the Ext.- M/10, M/11, M/12 and M/13. This tribunal finds forces in the contention of the management side that the workman has suo-moto left the job because workman has submitted tender for housekeeping in the Regional Office of CBSE, Patna. This tribunal further finds that the workman also concealed this facts that he was a registered Advocate and he was giving legal consultancy as registered practitioner i.e also admitted by the workman in his evidence. This tribunal further finds that the management side examined altogether three witnesses and they supported the contention of the management whatever they mentioned in the written statement and their evidence could not be controverted by the workman in cross-examination. On the other hand workman himself examined before this tribunal and he gave distorted facts in his examination-in-chief and in cross-examination, workman categorically accepted he worked as daily wage worker and he was drawing Rs. 200/- per day and also he admitted in cross-examination that he received Rs. 1095/- dues money from the CBSE office before the conciliation officer. He also admitted that he was secretary of the NGO and he also filed tender on behalf of the NGO in CBSE office for housekeeping work. Thus this tribunal finds and hold that the workman himself corroborated the contention of the management side, whatever the workman had concealed in his statement of claim. Accordingly this tribunal finds and hold that the workman has completely failed to establish his claim for reinstatement of his service in Regional Office of CBSE, Patna.

16. On scanning all the materials as discussed above available on record this tribunal finds and hold that the workman has totally failed to substantiate his claim for the reinstatement in service under any provision of I.D.Act and the management side has established, the workman is not entitled for any claim through the oral and documentary evidence. Accordingly, this is considered opinion of this tribunal that the workman is not entitled for any relief. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Sd/- 04.08.2023

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का. आ. 1398.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडसइंड बैंक लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (9/2018) प्रकाशित करती है।

[सं. एल-12012/39/2017- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th September, 2023

S.O. 1398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.9/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Indusind Bank Ltd and their workmen.

[No. L-12012/39/2017- IR(B-I)]

SALONI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present....**

Sunil Kumar Singh-I,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 14th August, 2023.

Reference: (CGITA) No- 9/2018

1. The Head HR(Indian),
Indusind Bank Ltd., Old No.19, New No.39,
Room No. 1 & 2, Sun Plaza,
First Floor, G. N. Chetty Road,
Chennai(Tamilnadu)-600006.

2. The Branch Manager,
Indusind Bank Ltd.,
Vehicle Finance Division,
Business Empire, 2nd Floor,
Near Swami Vivekanand Statue,
Rajkumar College Road,
Rajkot-360001.

.....First Party

V/s

Shri Amit Vijaybhai Joshi,
Amba Bhavan, Dharamnagar Society,
Street No.4/B, Near Sterling Hospital,
Gandhigram, Rajkot-360007.

.....Second Party

Adv. for the First Party : Shri Jayesh S. Patel
 Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/39/2017-IR(B-I) dated 22.01.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of management of Indusind Bank Ltd., Chennai/Rajkot by obtaining forceful resignation from Shri Amit Vijaybhai Joshi, collection Executive, Rajkot Vehicle Division Branch is legal, just and proper? If so, to what relief the concerned workmen Shri Amit Vijaybhai Joshi is entitled to and from which date and what other directions are necessary in the matter?”

1. Today, the matter was called out. First Party employer represented through Ld. Counsel Shri Jayesh S. Patel. None responded for Second Party / Workman. The reference dates back to 22.01.2018. The notice Ex.3 was served on both the parties by acknowledgement Ex. 4 and 5, wherein the second party was asked to submit the statement of claim on 14.06.2018. Thereafter again a notice Ex.8 was also served upon Second Party/workman vide acknowledgement Ex.9. The workman has filed neither statement of claim nor any evidence on record. Hence the claim under reference, not being substantiated by any degree of evidence is not tenable, thus dismissed.
2. The reference is thus answered accordingly against the workman.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1399.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हाप्रबंधक (एचआर-कानून), मेसर्स भारत हेवी इलेक्ट्रिकल्स लिमिटेड, बॉयलर सहायक संयंत्र (बीएपी), रानीपेट, वेल्लोर, के प्रबंधतंत्र के संबद्ध नियोजकों और महासचिव, बीएपी स्टाफ यूनियन, बीएचईएल/बीएपी, रानीपेट, वेल्लोर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय -चेन्नई पंचाट(संदर्भ संख्या 89/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06.09.2023 को प्राप्त हुआ था।

[सं. एल -42011/278/2022-आईआर (डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1399.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2022) of the **Central Government Industrial Tribunal cum Labour Court— Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation **The General Manager (HR-Law), M/s Bharat Heavy Electricals Ltd. Boiler Auxiliaries Plant (BAP), Ranipet, Vellore, and The General Secretary, BAP Staff Union, BHEL/BAP, Ranipet, Vellore**, which was received along with soft copy of the award by the Central Government on 06.09.2023.

[No. L-42011/278/2022 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

Present : Dipti Mohapatra, LL.M., Presiding Officer

I.D. No. 89/2022

Dtd: 19.06.2023

The General Secretary

BAP Staff Union, BHEL/BAP

Ranipet

Vellore-632406

: First Party/Petitioner

AND

The General Manager (HR-Law)

M/s Bharat Heavy Electricals Ltd.

Boiler Auxiliaries Plant (BAP)

Indira Gandhi Industrial Complex

Ranipet

Vellore-632406

: Second Party/Respondent

Appearance:

For the First Party/Petitioner

: Authorized Representative,
J. Nandakumar

For the Second Party/Respondent

: Authorized Representative
Sri T.S. Balaji, DGM (HR-Law)

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/278/2022 (IR(DU) dtd. 22.08.2022 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Bharat Heavy Electricals Ltd., Boiler Auxiliaries Plant (BAP), Ranipet, Vellore in discontinuing / stoppage of transport facility i.e. Operation of Company Bus from 01.06.2022 as raised by BAP Employees Union, Ranipet vide letter dtd. 19.05.2022 is proper, legal and justified? If not to what relief the workmen are entitled to? What directions, if any are necessary in the matter?”

2. A little reference to the backdrop of the case needs mention that on receipt of the schedule from the appropriate Government, is registered as ID No. 89/2022. Notices were issued to both the parties for their appearance 20.10.2022. On that day, Sri T.S. Balaji, DGM (HR-Law) entered appearance on behalf of the Second Party Respondent whereas the Petitioner Union remained un-represented. The case was reposted to 14.12.2022. On that day, the First Party Petitioner Union represented through their General Secretary, the Authorized Representative. The General Secretary, Sri J. Nandakumar moves the Tribunal vide its Memo dtd. 13.12.2022 seeking permission to withdraw the case on the grounds stated therein. The Second Party Respondent filed Authorization delegated to the Executive Director of Bharat Heavy Electricals Ltd. to represent the case. It is submitted that the Respondent is aware of the contents of the Memo dtd. 13.12.2022 seeking permission for withdrawal of the case.

3. For a just and proper order, the relevant documents are perused. It reveals from the Memo dtd. 13.12.2022 that both the parties held a bilateral discussion on 24.08.2022 and arrived at an understanding for sorting out the issue amicably regarding the transport facility. Accordingly, the General Secretary of the First Party Union seeks permission of the Tribunal for withdrawal of the dispute in the instant ID. The Authorized Representative of the Respondent, was present but raises no objection to the contents of the Memo as well as the submission of the First Party Union.

4. In view of the discussion held supra, it reveals that the Memo seeking permission for withdrawal of the dispute is an outcome of own volition of the First Party Union. Taking into consideration of the above fact, it is held that there will be no legal impediment to accord permission to the First Party Union to withdraw the dispute in the

instant ID as much as the submission of both parties has got sufficient force. Accordingly, the instant ID case is disposed of as withdrawn.

There exists no dispute for adjudication of the reference.

The ID case 89/2022 stands dismissed as withdrawn.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1400.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय प्रबंधक, बीएसएनएल, गांधीनगर, के प्रबंधन के संबद्ध नियोजकों और श्री शालीग्राम पाल, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 184/2006) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06/09/2023 को प्राप्त हुआ था।

[सं. एल-40012/22/2006- आईआर-डीयू]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1400.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 184/2006) of the **Central Government Industrial Tribunal cum Labour Court - Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Area Manager, BSNL, Gandhinagar, and Shri Saligram pal, Worker**, which was received along with soft copy of the award by the Central Government on 06/09/2023.

[No. L- 40012/22/2006-IR-DU]

D .K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Sunil Kumar Singh-I, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Date: 31st July, 2023

Reference (CGITA) No. : 184/2006

The Area Manager,
BSNL,
Gandhinagar

.....First Party / Employer

V

Shri Saligram Pal C/o Muneshbhai Parmar,
Block No. 109, J Type, Sector – 20,
Gandhinagar

.....Second Party / Workman

Advocate for the First Party / Employer

: Shri N. K. Trivedi

Representative for the Second Party / Workman

: Shri Chintan Gohel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/22/2006-IR(DU) dated 17.10.2006 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad in respect of the matter specified in the Schedule as under.

SCHEDULE

“Whether the action of the management of Area Manager, BSNL, Ahmedabad in terminating the services of their workman Shri Saligram Pal, w.e.f. April, 2001, is legal and justified? If not, to what relief the workman concerned is entitled to and from which date?”

1. The second party / workman submitted his statement of claim at Ex. 8, stating therein that he was appointed by the first party / employer as casual worker from the year 1991 after taking interview by Shri Amit Mishra, Area Manager, Gandhinagar. He was also transferred from one place to another in the telephone department. He had not been given pay and other benefits as prescribed under the I. D. Act and other labour laws. He had neither been given minimum wages nor any leave. He had raised demand for his all legal benefits, due to which, his services were terminated from April 2001 without following due process of law. He had worked for more than 240 days every year. He had not been given any termination order, notice or notice pay. His services had not been reinstated even writing letters to department. New persons had been appointed by the department for the work being assigned to him. He has prayed for reinstatement with full back wages and all consequential benefits.
2. The first party / employer has submitted its written statement at Ex. 9 stating that the second party / workman was never engaged / appointed as casual labour by the first party, hence the question of transferring him from one place to another and making payment does not arise. No interview was taken by the first party. The second party / workman had never worked with the first party for 240 days or more. The burden of proof lies on the second party / workman to prove his employment with the first party. First party / employer has vehemently denied the claim of the workman.
3. The second party / workman has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Serial of Document	Type / Remarks
1	Circular issued by Telecommunication Department	Not mentioned	Ex. 14	Xerox
2	Complaint filed by Shri Saligram Pal before the Assistant Commissioner of Labour (Central), Ahmedabad	16.09.2002	Ex. 19 / 1	Xerox
3	Order passed by Hon'ble High Court of Gujarat in Special Civil Application No. 6028 of 2003	13.01.2006	Ex. 19 / 2	Xerox

4. The second party / workman Shri Saligram Pal has deposed himself at Ex. 13 in his oral evidence.
5. The first party / employer has not filed any documentary evidence.
6. The first party / employer has examined Shri Umesh Jadgishbhai Oza, Divisional Engineer (I & R), Gandhinagar, at Ex. 16 in oral evidence.
7. I have perused the records and heard Ld. Counsel for first party / employer Shri N. K. Trivedi in addition to his written arguments at Ex. 18 and Ld. Counsel for second party / workman Shri Chintan Gohel in addition to his written arguments at Ex. 20.
8. The brief back ground of this proceedings is that workman submitted his complaint in respect of the said industrial dispute before the Assistant Commissioner of Labour (Central), Ahmedabad vide photocopy of said complaint at Ex. 19/1, the Labour authority declined to refer the dispute. The workman approached Hon'ble Gujarat High Court which vide order dated 13.01.2006 passed in Special Civil Application No. 6028/2003, filed at Ex. 19/2, quashed the order dated 05.02.2003 passed by the Assistant Labour Commissioner (Central), Ahmedabad and directed the Central authority to reconsider the issue and refer the same to the appropriate Court within a period of six months leading to the reference of this industrial dispute by Central Government as stated above.
9. On the basis of the pleadings submitted by both the parties, the main point for determination in this reference is whether there exists employer and employee relationship between the parties? If yes, the effect thereof?
10. Ld. Counsel for the second party / workman has argued that an application at Ex. 11 for the production of documents was moved by the workman but no such documents were produced by the employer. Hence, an adverse inference be drawn against the employer.

11. Ld. Counsel for the first party / employer has argued that the workman Shri Saligram Pal was never employed with the first party, hence, there was no occasion for the employer to furnish such documents or to terminate him.
12. Perusal of record shows that the workman vide his application at Ex. 11 prayed to direct the employer to produce seniority list of termination year, muster roll, wage register, wage slips, i-card and salary vouchers for the period from appointment till the date of termination. The first party / employer also filed his reply at Ex. 12 stating that no question arises to produce such documents as the workman was never employed in the institution of first party / employer. The then Presiding Officer, vide order dated 09.10.2018 rejected the application Ex. 11 moved by the workman on merit with the observations that the second party / workman did not file any document which could establish the fact that he was ever employed / engaged by the first party / employer as casual labour. The workman does not seem to have challenged this order dated 09.10.2018 passed by this Tribunal before any higher forum, hence, this order has attained finality. The workman has failed to file any cogent evidence until the conclusion of final arguments, to show that he was ever employed by the first party / employer as a casual labour. Hence no adverse inference can be drawn against the first party / employer in absence of any such evidence.
13. Ld. Counsel for the second party / workman has argued that the workman submitted an application before the employer and after passing through an interview, joined with the first party / employer as casual labour since 1991. He has been illegally terminated in April 2001 without any notice pay and the first party / employer has retained juniors in contravention of the provisions of Industrial Disputes Act. He has referred Deepali Gundu Surwase V Kranti Junior Adhyapak Maha Mandal (D.Ed.) & ors., 2013 (10)SCC 324, Bhuvneshver Kumar Dwivedi V M/s Hindalco Industries Ltd., 2014 (11) SCC 85, Raghubir Singh V Haryana Roadways, 2014 AIR SCW 5515, Mackinon Mackenzie & Co. Ltd. V Mackinon Employees Union, AIR 2015 (SC) 1373, Durgapur Casual Workers Union V Food Corporation of India & ors., 2015 (1) LLJ 160 (SC), State Trading Corporation of India Ltd. V Sushila Premjibhai Majithia & anr., GLR XLI (4) 3412 (Guj.) & Medical Officer, Primary Health Centre Surendranagar V Dashrathsinh Gajubha Zala, 2012 (5) GLR 4085 (Guj.) in support of his arguments, emphasizing that Hon'ble Supreme Court and Hon'ble Gujarat High Court, after considering various judgements of Hon'ble Supreme Court, granted the relief of reinstatement with full back wages and continuity in service in various cases of illegal terminations.
14. Ld. Counsel for the first party / employer has argued that the workman was never engaged by the first party / employer as casual labour as claimed by the second party / workman. The question of non-payment of minimum wages / termination of the workman does not arise. It is further argued that the workman has not discharged his burden to prove his claim. The first party / employer has referred The Range Forest Officer V S. T. Hadimani, 2002 (93) FLR 179 SC in support of his arguments.
15. The factual matrix pointed out by the Ld. Counsel for the workman is to be tested on the basis of the evidence on record. Workman Shri Saligram Pal has filed his affidavit at Ex. 13 in his examination in chief. The contents of this affidavit are the replica of his statement of claim filed at Ex. 8. However the second party / workman in his cross-examination has clearly stated that he never moved an application for appointment in the institution with the employer. He was never issued with any appointment letter. He has no proof to show that he ever worked with the institution of first party / employer. He has further stated that he has no proof to show that one Shri Thakur started working after two years of his joining and one Shri Nanhey started working after one and half years of his joining. The first party / employer's formal witness Shri Umesh Jagdishbhai, Divisional Engineer (I & R), Gandhinagar, in his affidavit submitted in his examination in chief at Ex. 16, denied the claim of the workman and stated that the workman was never engaged by the first party / employer. Nothing has come in his cross-examination, which may give any benefit to the workman.
16. The only documentary evidence filed on behalf of the workman through list at Ex. 14 is the undated photocopy of circular of Telecommunication Department, according to which, Casual Labour (grant of temporary status & regularisation) Scheme 1989 was initiated and was enforceable w.e.f. 01.10.1989. The First Para of this scheme gives an impression that such instructions were issued to give temporary status to those casual labours who completed 240 days in one year. As far as the present workman is concerned, nothing has been produced on record to show that Mr. Saligram Pal ever worked with the employer / institution as admitted by him in his aforesaid cross-examination. The workman has admittedly not discharged his burden of proof to any extent.
17. Hon'ble Supreme Court in S. T. Hadimani (supra) has held in para no. 2 as under.
 "2.In our opinion, the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had infact worked for 240 days in the year preceding his termination. Filing of an affidavit is only

his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside.....”

18. In view of aforesaid discussion, the workman has miserably failed to discharge his burden to prove that he was ever employed with the first party / employer. His affidavit at Ex. 13 is only his own statement in his favour which cannot be regarded as sufficient for this Tribunal to come to the conclusion that he was ever employed with the first party / employer for any number of days. The facts of the case law cited by the Ld. Counsel for the second party / workman are easily distinguishable and give no benefit to the workman. The employer - employee relationship does not exist between the parties. Hence the question of compliance of the provisions of Section 25 F, 25 G & 25 H of Industrial Disputes Act, 1947 on the part of the first party / employer does not arise. The workman Shri Saligram Pal is not entitled for any relief. The reference is answered accordingly against the workman.

19. The award is passed accordingly.

Let two copies of the Award be sent to the appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1401.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, प्रमुख-एच आर, भारती एयरटेल लिमिटेड, अहमदाबाद, के प्रबंधन के संबद्ध नियोजकों और श्री दिनेश के. गोरी, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 07/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06/09/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-179- आईआर-डीयू]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1401.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 07/2018) of the **Central Government Industrial Tribunal cum Labour Court - Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, Head-HR, Bharti Airtel Limited, Ahmedabad,, and Shri Kevil Omprakash Dhavan, Worker,** which was received along with soft copy of the award by the Central Government on 06/09/2023.

[No. L- 42025/07/2023-179- IR DU]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present.... Sunil Kumar Singh-I, Presiding Officer,

CGIT cum Labour Court,

Ahmedabad,

Dated 26th June, 2023.

Industrial Dispute (CGITA) No. - 07/2018

Shri Kevil Omprakash Dhavan,

Residing at A/006,

Shrinanadnagar, Part-3,

Nr. Jain Temple, Vejalpur,

Ahmedabad.

..... Applicant

V/s

The Manager, Head-HR,
Bharti Airtel Limited,
Situating at 2nd Floor,
Zodiac Aquare, Opp. Gurudwara,
S. G. Highway,
Ahmedabad.

..... Opponent

For the Applicant/workman : None

For the Opponent/employer : Shri S. B. Gogda Adv.

AWARD

The Assistant Labour Commissioner (Central), Ahmedabad had issued the certificate vide No. ALC/ADI/8(128)2015 dated 27.04.2016 to the applicant for filing claim in this Tribunal.

1. The applicant filed his statement of claim Ex.1 under Section 2-A of the Industrial Disputes (Amendment) Act, 2010 dt.23.11.2016 received by this courts office on 20.12.2016 against termination from service w.e.f. 06.08.2015. Notices Exh.3 & Exh.7 were served upon both the parties. Opposite Party also submitted written statements vide Ex.6 r/w Ex.12.
2. Today matter was called out. Shri S. B. Gogda Ld. Counsel is present for the Opposite Party/employer. Perusal of the record shows that applicant/workman has not been turning up since 30.10.2018. Last opportunity was also given to applicant/workman to lead his evidence on 09.11.2022 and another opportunity was afforded to applicant/workman on 21.02.2023. It appears that the applicant/workman is not interested to proceed further in the matter.
3. The Statement of claim filed by the applicant/workman is not substantiated by any evidence, hence the claim of the workman stands rejected. The applicant/workman does not seem to be entitled for any relief. The claim deserves to be dismissed. The award is passed accordingly.
4. The award be sent for publication U/s 17(1) of Industrial Disputes Act. Let the record be consigned to record.

SUNIL KUMAR SINGH – I, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1402.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, प्रमुख-एच आर , भारती एयरटेल लिमिटेड, अहमदाबाद ; निदेशक, मैसर्स साई सेटलर्स प्रा. लिमिटेड, अहमदाबाद, के प्रबंधन के संबद्ध नियोजकों और श्री दुर्गेश एन. मिश्रा, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 43/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06/09/2023 को प्राप्त हुआ था।

[सं. एल-40012/14/2016- आईआर-डीयू]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1402.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2016) of the **Central Government Industrial Tribunal cum Labour Court - Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, Head-HR, Bharti Airtel Limited, Ahmedabad ; The Director, M/s Sai Settlers Pvt. Ltd., Ahmedabad, and Shri Durgesh N. Mishra, Worker**, which was received along with soft copy of the award by the Central Government on 06/09/2023.

[No. L- 40012/14/2016- IR DU]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD****Present...** Sunil Kumar Singh-I, Presiding Officer,

CGIT cum Labour Court,

Ahmedabad,

Dated 26th June, 2023.**Reference: (CGITA) No- 43/2016**

1. The Head-HR,

Bharti Airtel Limited,

2nd Floor, Zodiac Aquare,

Opp. Gurudwara, S. G. Highway,

Ahmedabad-380054.

2. The Director,

M/s Sai Settlers Pvt. Ltd., B/810,

Ganesh Plaza, Nr. Navrangpura Post Office,

Opp. Municipal Corporation, Navrangpura,

Ahmedabad-380009.

.....First Party

V

Shri Durgesh N. Mishra,

R-405, Home Town-4, Nr. Tejendra Nagar-7,

B/h. Dharti Nagar Bungalow, Tragad Road,

IOC-CHandkheda,

Ahmedabad (GUJARAT)

.....Second Party

Advocate for the First Party employer

: Shri S. B. Gogda

Advocate for the Second Party workman

: None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/14/2016-IR(DU) dated 19.09.2016 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Shri Durgesh N. Mishra against the Head-HR, Bharti Airtel Ltd., Ahmedabad (Principal Employer) and the Director, M/s Sai Settlers Ltd., Ahmedabad (Contractor) to reinstate in service with full back wages is justified? If so, then what relief Shri Durgesh N. Mishra, workman is entitled to?”

1. The matter was taken up today. First Party/employer is represented through Shri S. B. Gogda Advocate. None responded for Second Party/Workman. The reference dates back to 19.09.2016. Second Party/workman appeared on two occasions only i.e. on 11.06.2018 & 20.10.2021. Thereafter he has not been turning up for filing statement of claim despite giving several opportunities. The second party/workman was afforded last opportunity on 09.11.2022 and another opportunity on 21.02.2023 to file his statement of claim. It appears that the Second Party/workman is not interested to proceed further in the matter.

2. There is no evidence on record to substantiate the demand of the Second Party/workman, hence the reference is disposed of with the observation that the demand of Shri Durgesh N. Mishra against the Head-HR, Bharti Airtel Ltd., Ahmedabad (Principal Employer) and the Director, M/s Sai Setters Ltd., Ahmedabad (Contractor) to reinstate in service with full back wages is illegal and unjustified. The workman is not entitled for any relief. The reference is answered accordingly.
3. Award is passed accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of the Industrial Disputes Act, 1947.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1403.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ; मैसर्स शाह बंधु, द्वारा श्री योगेंद्र प्रसाद शाह, स्वच्छता ठेकेदार, हरजेंद्र नगर, कानपुर ; मैसर्स ग्रुप-4 फैसिलिटी सर्विस, द्वारा श्री नवल कपूर, निदेशक कार्मिक, 1/97, विद्युत खंड, गोमती नगर, लखनऊ, के प्रबंधन के संबद्ध नियोजकों और श्री सरजू, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 83/2011) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 24/08/2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-178-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1403.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 83/2011**) of the **Central Government Industrial Tribunal cum Labour Court—Lucknow**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Hindustan Aeronautics Limited, Lucknow ; M/s Shah Bandhu, through Shri Yogendra Prasad Shah, Sanitation Contractor, Harjendra Nagar, Kanpur ; M/s Group -4 Facilities Service, through Shri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow, and Shri Sarju, Worker,** which was received along with soft copy of the award by the Central Government on 24/08/2023.

[No. L- 42025-07-2023-178- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present : Justice Anil Kumar, Presiding Officer

I.D. No. 83/2011

Between :

Sri Sarju son of late Pancham,
Resident of 631/639,
Ismailganj, post Chintahat,
Faizabad Road, Lucknow

AND

1. Hindustan Aeronautics Limited, Lucknow Division, Lucknow through its General Manager.
2. General Manager, Hindustan Aeronautics Limited, Lucknow Division, Lucknow.

3. M/s Shah Bandhu, through Sri Yogendra Prasad Shah, Sanitation Contractor, 504, Viman Nagar, G.T. Road.
Harjendra Nagar, Kanpur.
4. M/s Group -4 Facilities Service, through Sri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow.

AWARD

On 28.02.2011 the claimant/workman has filed the ID case No. 83/2011 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Hindustan Aeronautics Limited, Lucknow Division (hereinafter referred to as Establishment), is a factory registered under the provisions of the Factories Act, which is situated at Faizabad Road, Lucknow and the sanitation work of the premises of the Establishment as well as Plant and Machinery installed at the factory premises is a perennial as well regular nature of job.

Establishment is an Engineering Industry and the Government has issued a notification dated 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 after the recommendation of Contract Labour Advisory Board, whereby 18 works of the Engineering Industry, which are regular or perennial in nature has been prohibited.

However, it was the prevalent practice in establishment that they employed the contract labour for sanitation work of the establishment/premises despite the fact that the sanitation work was regular in nature; and the claimant/workman was working in the establishment right from the very beginning i.e. from the date, the factory was established and continuously worked till the date of termination i.e. 21.12.2001.

As per the case workman order of termination dated 21.12.2001 by which his services in an illegal and unjustified manner was terminated, inasmuch as in establishment of the employers there were more than 100 workmen employed as such the compliance of Section 25-N of the Industrial Disputes Act was necessary but before terminating the services of the workmen, the employers have not complied with the provisions of Section 25-N of the Industrial Disputes Act.

Further, the services of the workman have been terminated by the principal employer not by the contractor and the work which were being performed by the concerned workman still exist with employers and the same is being carried out by employing new workmen on contract basis.

In the claim petition it has been pleaded that earlier the workmen's Union in Establishment i.e. Hindustan Aeronautics Karamchari Sabha, raised the dispute of the workman along with some other workmen before the State Government which, was referred for adjudication before the Industrial Tribunal (II), U.P., Lucknow, registered before Industrial Tribunal (II), U.P., Lucknow as Adj. Case No.: 126 of 2002.

However, on account of the fact that the workman along with some other workmen were not satisfied with the pairavi of the Union as such an authority letter was filed along with an application by 20 workmen amongst the concerned workman to represent the said case but the Union, filed objection that as applicants who have filed the application are not party in the said case as such they are not entitled to represent the case. By an order dated 10.03.2010, the Hon'ble Presiding Officer held that the workmen are not satisfied with the proceedings through Union, they can raise separate dispute "under the provisions of Act.

Thereafter, an application was filed by 36 workmen including the claimant/workman on 10.07.2010 before, the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow after hearing the parties concerned was pleased to allow the said application except three whose names were not mentioned in reference order.

In pursuance to order dated 20.07.2010 the workman concerned along with 32 other workman filed an application before the Regional Labour Commissioner (Central), Lucknow which was registered as Case No. LKO-8(2-32)/2010: Laxmi Narain and 32 others Vs. General Manager, Hindustan Aeronautics Limited and others.

Thereafter, Regional Labour Commissioner (Central), Lucknow, called upon the parties for conciliation proceedings and in pursuance thereof Hindustan Aeronautics Limited appeared before him and filed their objections and due to the negative attitude of the employers, no settlement could be arrived between the parties.

Since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and

to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

In view of above said factual background the present case has been filed u/s 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) with following prayer:

“WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to declare that the action of the management in terminating the services of workman with effect from 21.12.2001 is neither legal nor justified and accordingly the workman concerned is entitled to get reinstatement in service together with entire consequential benefits including back wages and other service benefits, in the interest of justice.”

On behalf the respondent written statement has been filed on 15.05.2012 in which following preliminary objection was taken:

“1. That the aforesaid ID Case No.82/2011 is not maintainable as per the provisions of ID Act 1947 (as amended by ID (Amendment) Act 2010) because the same is barred by limitation U/S 2A(3) of the ID Act (Amendment 2010) which is quoted as below:

2A(3) "the application referred to in sub section 2 shall be made to Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination service as specified in sub section 1".

In addition to the above said facts, the respondent in its written statement also given the parawise reply to the case as set up by the claimant in his statement of claim.

Sri Adarsh Jadghari has submitted that before deciding the matter in question on merit, the question “whether the claim petition filed by the claimant on 28.02.2011 as per the provisions of section 2A (2) of the Act, aggrieved by the order of termination/retrenchment dated 21.12.2001 is barred by the period of limitation as provided u/s 2A(3) of the Act or not?”

Sri Adarsh Jadghari in support of his argument submits, admittedly as per the case of the claimant his services were terminated on 21.12.2001, aggrieved by the same he filed present industrial dispute u/s 2A (2) of the Act; however, u/s 2A (3) of the Act the period of limitation is provided for three years, from the date of retrenchment/termination, so, the present claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be dismissed.

Sri D.K. Gupta, learned counsel for claimant, rebutting the said contention has placed reliance as pleaded in the statement of claim and submits that in view of the facts as stated hereinabove especially in paragraph 27 & 28, which are quoted herein below:

“27. That since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

28. That in pursuance thereof, the workman concerned approaching the Hon'ble Tribunal for the adjudication of the industrial disputes as prevalent between the workman and the employers.”

The present claim petition filed u/s 2 (2) of the Act is maintainable and the arguments as raised by the learned counsel for respondent that same is barred by the period limitation is devoid of merit, be rejected.

I have heard the learned counsel for parties and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from 1st April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

- (i) **Industrial Peace:** For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.
- (ii) **Economic Justice:** All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc. (*Hariprasad Vs. A.D. Divelkar, AIR 1957 SC 121*)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (*Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167*)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (*G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100*) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (*Standard Vacuum Oil Co. Errakulam Vs. I. Tribunal, Errakulam 1952-II LLJ 612*). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

“2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (*National Productivity Council, 1969-II LLJ 186*).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in **ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041**, relevant portion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision

by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of **Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of **Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

- (i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)*
- (ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)*
- (iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)*
- (iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)*

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case

had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced.”

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and position of law as well that “if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited”, the said proposition of law is first held in the case of *Tylor Vs. Tylor (1875) LR 1 ChD 426* and adopted later by the *Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253* and thereafter by the Hon’ble Supreme Court in a series of judgments including those in *Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322*, *State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358*, *Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266*, *Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9* and *Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755*.

In the case of *Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297*, the Hon’ble Supreme Court held as under:-

“No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided”.

Hon’ble the Apex Court in the case of *Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111*, held as under:-

“24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute”.

In the case of *Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257*, it has been held as under:-

“There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect”.

In the case of *Union of India Vs. Hansoli Devo (2002) 7 SCC 273*, Hon’ble the Supreme Court observed as under:-

“9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.”

In the case of *Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594*, took the view:-

“12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle.”

Also, Hon’ble the Supreme Court in the case of *Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765* has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See *Martin Burn Ltd. v. Corpn. of Calcutta*¹⁰, AIR p. 535, para 14 and *Rohitash Kumar v. Om Prakash Sharma*¹¹.)

Reverting to the facts of the present case, as per admitted position, the services of the workman was terminated on 21.12.2001 and the same has been challenged by him by filing the present industrial dispute on 28.02.2011.

So, keeping in view the above said facts as well as that the workman/Sri Sarju cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 21.12.2001 and filed the present case on 28.02.2011 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation provided u/s 2A (3) of the Act, liable to be rejected.

Accordingly, the same is rejected on the ground that same is barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

27.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1404.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष-सह-वैमानिकी प्रभाग, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, डाकघर - कोरवा, जिला अमेठी, के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, हिंदुस्तान एयरोनॉटिक्स कर्मचारी संघ, भारिया मजदूर संघ, अमेठी, सुल्तानपुर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 11/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19/08/2023 को प्राप्त हुआ था।

[सं.एल-12011/19/2017-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1404.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 11/2019**) of the **Central Government Industrial Tribunal cum Labour Court—Lucknow**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **Aeronautical Division, Hindustan Aeronautics Limited, PO - Korwa, District Amethi, and The President, Hindustan Aeronautics Karmchhari Sangh, Bhariya Majdoor Sangh, Amethi, Sultanpur**, which was received along with soft copy of the award by the Central Government on 19/08/2023.

[No. L- 12011/19/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM –LABOUR COURT, LUCKNOW****Present :** Justice Anil Kumar, Presiding Officer**I.D. 11/2019****Ref. No.-L-12011/19/2017-IR(DU) dt. 18.01.2019****BETWEEN**

The President
Hindustan Aeronautics Karmchari Sangh,
Affiliated to Bhariya Majdoor Sangh,
Union Bhawan, HAL, Korwa Amethi
Sultanpur-228001

AND

Management of Aeronautical Division, Hindustan Aeronautical Limited, PO Korba, District Amethi
Amethi-227412

AWARD

By order No. L-12011/19/2017-IR(DU) dt. 18.01.2019 present industrial dispute has been referred for adjudication to this Tribunal dispute in exercise of the powers conferred by clause (d) of Sub- Section (1) and sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:

“Whether the demands raised by Hindustan Aeronautics Karmchari Sangh for regularizing the services of daily wage and contractual labour employed in the production process directly or indirectly and doing away with contractual process and payment of wages at par with other contractual/daily wage employees in other division and providing the same benefits as permanent employees to contractual employees is fair, just and legal? If so, to what benefits the Union is entitled to?”

Accordingly an industrial dispute No. 11/2019 has been registered.

On 20.01.2021 an order was passed quoted herein below:-

“Taken up

Present A/r management. None for workman.

Management moved an application to dispose of the case as no CS has been filed.

Heard and perused filed.

Issue fresh notice to workman”.

Thereafter on 01.03.2023 an order was passed quoted herein below:-

“Matter taken up in revise list.

Sri Adarsh Jagdhari for HAL. None for claimant.

In spite of last opportunity to file statement of claim vide order dated 15.09.2022, the same is not filed; accordingly, the opportunity to file statement of claim is closed”.

On 25.03.2023 when the matter taken up for hearing neither claimant/legal representative appeared on his behalf nor any claim statement was filed.

Accordingly I have heard learned counsel for respondent Sri Adarsh Jagdhari perused on record.

Taking into consideration the fact till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 18.01.2019.

So in view of the said facts, as well as the law laid by the Hon’ble High Court in the case of V.K. Industries Vs. Labour Court (I) and others 1981 (29 F.L.R. as under:-

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raised a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file

written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief”.

In the case of M/s Uptron powertronics Employees’ Union, Ghaziabad through its Secretary V. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164 Hon’ble Allahabad High Court has held as under:-

“The law has been settled by the Apex Court in case of Shankar Chakravarti Vs Britannia Biscuit Co. Ltd., V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish and allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

And by the Hon’ble Allahabad High Court in the case of District Administrative Committee U.P. P.A. C.C.S.C. Services V. Secretary-cum- G.M. District Co-Operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed”.

As the workman had not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief:-

Lucknow

Date: 11.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1405.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ; मैसर्स शाह बंधु, द्वारा श्री योगेंद्र प्रसाद शाह, स्वच्छता ठेकेदार, हरजेंद्र नगर, कानपुर ; मैसर्स ग्रुप-4 फैसिलिटी सर्विस, द्वारा श्री नवल कपूर, निदेशक कार्मिक, 1/97, विद्युत खंड, गोमती नगर, लखनऊ, के प्रबंधन के संबंध में नियोजकों और श्री प्यारे लाल, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 77/2011) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 24/08/2023 को प्राप्त हुआ था।

[सं. एल- 42025-07-2023-177-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2023

S.O. 1405.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 77/2011) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Hindustan Aeronautics Limited, Lucknow ;M/s Shah Bandhu, through Shri Yogendra Prasad Shah, Sanitation Contractor, Harjendra Nagar, Kanpur ; M/s Group -4 Facilities Service, through Shri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow, and Shri Pyarey Lal, Worker**, which was received along with soft copy of the award by the Central Government on 24/08/2023.

[No. L- 42025-07-2023-177-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW****Present :** Justice Anil Kumar Presiding Officer**I.D. No. 77/2011****Between:**

Sri Pyarey Lal son of late Khyali,
Resident of 631/590,
Ismailganj, post Chintahat,
Faizabad Road, Lucknow

AND

1. Hindustan Aeronautics Limited, Lucknow Division, Lucknow through its General Manager.
2. General Manager, Hindustan Aeronautics Limited, Lucknow Division, Lucknow.
3. M/s Shah Bandhu, through Sri Yogendra Prasad Shah,
Sanitation Contractor, 504, Viman Nagar, G.T. Road.
Harjendra Nagar, Kanpur.
4. M/s Group -4 Facilities Service, through Sri Nawal Kapoor, Director Personnel, 1/97,
Vidyut Khand, Gomti Nagar, Lucknow.

AWARD

On 28.02.2011 the claimant/workman has filed the ID case No.77/2011 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Hindustan Aeronautics Limited, Lucknow Division (hereinafter referred to as Establishment), is a factory registered under the provisions of the Factories Act, which is situated at Faizabad Road, Lucknow and the sanitation work of the premises of the Establishment as well as Plant and Machinery installed at the factory premises is a perennial as well regular nature of job.

Establishment is an Engineering Industry and the Government has issued a notification dated 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 after the recommendation of Contract Labour Advisory Board, whereby 18 works of the Engineering Industry, which are regular or perennial in nature has been prohibited.

However, it was the prevalent practice in establishment that they employed the contract labour for sanitation work of the establishment/premises despite the fact that the sanitation work was regular in nature; and the claimant/workman was working in the establishment right from the very beginning i.e. from the date, the factory was established and continuously worked till the date of termination i.e. 21.12.2001.

As per the case workman order of termination dated 21.12.2001 by which his services in an illegal and unjustified manner was terminated, inasmuch as in establishment of the employers there were more than 100 workmen employed as such the compliance of Section 25-N of the Industrial Disputes Act was necessary but before terminating the services of the workmen, the employers have not complied with the provisions of Section 25-N of the Industrial Disputes Act.

Further, the services of the workman have been terminated by the principal employer not by the contractor and the work which were being performed by the concerned workman still exist with employers and the same is being carried out by employing new workmen on contract basis.

In the claim petition it has been pleaded that earlier the workmen's Union in Establishment i.e. Hindustan Aeronautics Karamchari Sabha, raised the dispute of the workman along with some other workmen before the State Government which, was referred for adjudication before the Industrial Tribunal (II), U.P., Lucknow, registered before Industrial Tribunal (II), U.P., Lucknow as Adj. Case No.: 126 of 2002.

However, on account of the fact that the workman along with some other workmen were not satisfied with the pairavi of the Union as such an authority letter was filed along with an application by 20 workmen amongst the concerned

workman to represent the said case but the Union, filed objection that as applicants who have filed the application are not party in the said case as such they are not entitled to represent the case. By an order dated 10.03.2010, the Hon'ble Presiding Officer held that the workmen are not satisfied with the proceedings through Union, they can raise separate dispute "under the provisions of Act.

Thereafter, an application was filed by 36 workmen including the claimant/workman on 10.07.2010 before, the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow after hearing the parties concerned was pleased to allow the said application except three whose names were not mentioned in reference order.

In pursuance to order dated 20.07.2010 the workman concerned along with 32 other workman filed an application before the Regional Labour Commissioner (Central), Lucknow which was registered as Case No. LKO-8(2-32)/2010: Laxmi Narain and 32 others Vs. General Manager, Hindustan Aeronautics Limited and others.

Thereafter, Regional Labour Commissioner (Central), Lucknow, called upon the parties for conciliation proceedings and in pursuance thereof Hindustan Aeronautics Limited appeared before him and filed their objections and due to the negative attitude of the employers, no settlement could be arrived between the parties.

Since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

In view of above said factual background the present case has been filed u/s 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) with following prayer:

"WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to declare that the action of the management in terminating the services of workman with effect from 21.12.2001 is neither legal nor justified and accordingly the workman concerned is entitled to get reinstatement in service together with entire consequential benefits including back wages and other service benefits, in the interest of justice."

On behalf the respondent written statement has been filed on 15.05.2012 in which following preliminary objection was taken:

"1. That the aforesaid ID Case No.82/2011 is not maintainable as per the provisions of ID Act 1947 (as amended by ID (Amendment) Act 2010) because the same is barred by limitation U/S 2A(3) of the ID Act (Amendment 2010) which is quoted as below:

2A(3) "the application referred to in sub section 2 shall be made to Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination service as specified in sub section 1".

In addition to the above said facts, the respondent in its written statement also given the parawise reply to the case as set up by the claimant in his statement of claim.

Sri Adarsh Jadghari has submitted that before deciding the matter in question on merit, the question "whether the claim petition filed by the claimant on 28.02.2011 as per the provisions of section 2A (2) of the Act, aggrieved by the order of termination/retrenchment dated 21.12.2001 is barred by the period of limitation as provided u/s 2A(3) of the Act or not?"

Sri Adarsh Jadghari in support of his argument submits, admittedly as per the case of the claimant his services were terminated on 21.12.2001, aggrieved by the same he filed present industrial dispute u/s 2A (2) of the Act; however, u/s 2A (3) of the Act the period of limitation is provided for three years, from the date of retrenchment/termination, so, the present claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be dismissed.

Sri Arjun Singh, learned counsel for claimant, rebutting the said contention has placed reliance as pleaded in the statement of claim and submits that in view of the facts as stated hereinabove especially in paragraph 27 & 28, which are quoted herein below:

"27. That since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the

Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

28. *That in pursuance thereof, the workman concerned approaching the Hon'ble Tribunal for the adjudication of the industrial disputes as prevalent between the workman and the employers."*

The present claim petition filed u/s 2 (2) of the Act is maintainable and the arguments as raised by the learned counsel for respondent that same is barred by the period limitation is devoid of merit, be rejected.

I have heard the learned counsel for parties and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from 1st April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

- (i) **Industrial Peace:** For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.
- (ii) **Economic Justice:** All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc. (*Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121*)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (*Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167*)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (*G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100*) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (*Standard Vacuum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612*). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the

legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

“2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

“2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

“(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1).”

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon’ble the Karnataka High Court in **ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041**, relevant portion quoted as under:

“19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily “before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1).” Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of **NAZIRUDDIN VS SITARAM AGARWAL** reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in **NAZIRUDDIN's** case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of **Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified."

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable."

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of **Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

- (i) *ITC Infotech India Ltd. v. Venkataramana Uppada* (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)
- (ii) *Management of Ashok Leyland v. Presiding Officer, Labour Court* (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)
- (iii) *Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation* (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)
- (iv) *K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board* (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and position of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of *Tylor Vs. Tylor* (1875) LR 1 ChD 426 and adopted later by the *Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253* and thereafter by the Hon'ble Supreme Court in a series of judgments including those in *Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322*, *State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358*, *Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266*, *Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9* and *Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755*.

In the case of *Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297*, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of *Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111*, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of **Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257**, it has been held as under:-

“There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect”.

In the case of **Union of India Vs. Hansoli Devo (2002) 7 SCC 273**, Hon'ble the Supreme Court observed as under:-

“9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.”

In the case of **Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594**, took the view:-

“12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle.”

Also, Hon'ble the Supreme Court in the case of **Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765** has held as under:

“16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.”

(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma11.)

Reverting to the facts of the present case, as per admitted position, the services of the workman was terminated on 21.12.2001 and the same has been challenged by him by filing the present industrial dispute on 28.02.2011.

So, keeping in view the above said facts as well as that the workman/Sri Pyarey Lal cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 21.12.2001 and filed the present case on 28.02.2011 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation provided u/s 2A (3) of the Act, liable to be rejected.

Accordingly, the same is rejected on the ground that same is barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

27.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1406.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उपमंडल अधिकारी, अहमदाबाद-(गुजरात); मंडल अभियंता, दूरसंचार, नवरंगपुरा, अहमदाबाद-(गुजरात), के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, सौराष्ट्र कर्मचारी संघ, राजकोट-(गुजरात), कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 347/2004) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06/09/2023 को प्राप्त हुआ था।

[सं. एल-40012/326/2000-आईआर-डीयू]

डी. के. हिमांशु, अवसर सचिव

New Delhi, the 6th September, 2023

S.O. 1406.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 347/2004) of the **Central Government Industrial Tribunal cum Labour Court - Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Sub Divisional Officer, Ahmedabad-(Gujarat); The Divisional Engineer, Telecom, Navrangpura, Ahmedabad-(Gujarat), and The President, Saurashtra Employees Union, Rajkot-(Gujarat)**, which was received along with soft copy of the award by the Central Government on 06/09/2023.

[No. L- 40012/326/2000- IR DU]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Sunil Kumar Singh-I, Presiding Officer,

CGIT cum Labour Court,

Ahmedabad,

Dated : 03.08.2023

Reference: (CGITA) No- 347/2004

1. The Sub Divisional Officer,

Divn.2, Microwave Building,

Navrangpura,

Ahmedabad(Gujarat)-380001.

2. The Divisional Engineer, Telecom,

Divn.2, Microwave Building,

Navrangpura,

Ahmedabad(Gujarat)-380001.

.....First Party

V/s

The President,

Saurashtra Employees Union,

Umesh Commercial Complex,

IInd Floor, Office No.213 & 214,

Near Chaudhary High School,

Rajkot(Gujarat) – 324001.

.....Second Party

For the First Party : Shri N.K. Trivedi

For the Second Party : None.

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/326/2000-IR(DU) dated 28.09.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether Shri Sureshbhai Laljibhai Parmar was engaged continuously by the department of Telecom (Microwave Division-2) w.e.f. 01.09.1986? If so, then his disengagement, termination w.e.f. 28.02.1990 is legal and justified and what relief the concern workman is entitled?”

1. The reference dates back to 28.09.2000. The second party submitted the statement of claim vide Ex. 10 along with the copy of the documents vide list Ex. 11 on 03.07.2001 and the first party submitted the written statement along with documents annexure-I vide Ex.18 on 17.02.2004. The second party also submitted his affidavit of deposition vide Ex.21 on 08.02.2012, since then the case is fixed for cross examination of SP/workman. Second Party workman/union has not been turning up since 11.04.2019 for his cross examination despite giving several opportunities. The second party/workman was afforded an opportunity on 01.11.2022 and another opportunity on 13.06.2023. Thus, in the aforesaid circumstances, it appears that the Second Party workman/union is not interested to proceed further in the matter.
2. As the SP workman/union has not ensured the attendance of its witness Shri Sureshbhai Laljibhai Parmar for cross examination hence his affidavit submitted in examination in chief at Ex.21 is of no avail. No other evidence filed by the workman except the xerox copy of details of his working days Marked as M-11/1, whose genuineness has not been confirmed by any degree of other satisfactory evidence. Thus, in the light of the aforesaid circumstances, the reference is answered in negative as against the workman/union. The award is passed accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2023

का.आ. 1407.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (03/2021) प्रकाशित करती है।

[सं. एल. 12025/01/2023-आई आर (बी.1)-80]

सलोनी, उप निदेशक

New Delhi, the 6th September, 2023

S.O. 1407.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.03/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the **Annexure, in the industrial dispute between the management of Northern Railway and their workmen.**

[No. L-12025/01/2023-IR(B-I)-80]

SALONI, Dy. Director

ANNEXURE**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

Present: Justice Anil Kumar, Presiding Officer

I.D. No. 03/2021

Pawan Kumar Vs. Northern Railway

BETWEEN

Pawan Kumar son of Sri shyamlal resident 17, Kalyani Vihar, Kamta Chinhat, Lucknow

..... **Workman**

AND

1. General Manager Northern Railway

Badauda House, New Delhi 110001

2. Mandal Rail Prabhandhak
Northen Railway Hazratganj,
Lucknow Mandal 226001
3. Mohd. Shahid Faizan Ahmad and brothers 654 Begam ka Makbara Faizabad District Faizabad

..... Respondent

AWARD

On 18.01.2021 on behalf of claimant the complaint under sub-section (2) & Sub-section 3 of Section 2-A of Industrial Dispute Act 1947, filed supported by an affidavit.

Facts as pleaded by the claimant in his claim petition in brief are as under:-

- A. 01.09.2003 he was engaged/appointed through contractor in the service Act, Charbagh Railway Station on the post of driver Box handling under opposite party No. 2.
- B. some alleged complaints has been made against him, however without providing the copy of the complaint neither asking any reply from the opposite party No. 2 as disengaged the appellant from service with effect from 25.11.2009 thereafter he reaches as raised industrial dispute before appropriate authority on 17.07.2019 under Sub-section 2 read with Section 3 of Industrial Dispute Act.

Aggrieved by the discharged/retrenchment his service as no steps taken, so after expiry on 45 days approached this Tribunal on following relief:-

“अतः निवेदन है कि दिनांक 25.11.2009 से की गयी सेवा समाप्ति आदेश को अवैध ठहराये तथा प्रतिवादी नं० 2 को कर्मचारी घोषित किया जाय तथा प्रतिवादी संख्या-3 का कन्ट्रैक्ट खत्म होने पर प्रार्थी को अन्य किसी नार्दन रेलवे के कान्ट्रेक्टर के अधीन सेवा नियोजित किया जाय, जिससे प्रार्थी व उसके परिवार को जीवन यापन हो सके”।

On behalf of respondent No. 1 & 2 written statement filed, in which preliminary objection, taken, reads as under.

1. That the present industrial dispute has been raised by the claimant after an inordinate delay of 12 years from the date of his alleged termination i.e. 25.11.2009, which is beyond the period prescribed for agitating the cause of action, under provisions of Section 2A(3) of the Industrial Dispute Act, 1947, hence this Hon'ble Tribunal has no jurisdiction to take cognizance thereof.
2. That the Industrial Dispute Act, 1947 and the Rules framed there under are complete code in itself which contain the mandatory provisions prescribed for espousing any cause before the expiry of three years from the date of discharge dismissal, retrenchment or otherwise termination of service as specified in Sub- Section (1) of Section 2(A) of the Industrial Dispute Act, 1947, it is specifically stated that this enactment has not conferred any jurisdiction or powers to condone any delay by any of the authority including this Hon'ble Tribunal, appointed and constituted under the Act.

Sri G.C. Rai learned counsel for claimant had pressed preliminary objection which taken on behalf of respondent as stated hereinabove.

Finding & conclusion:-

I have heard Sri G.C. Rai learned counsel for the respondents have gone through the record, as none is present on behalf of claimant/workman after due notice.

Taking into consideration the facts as stated by the claimant in his claim petition by respondent in its written statement and by the claimant in his rejoinder affidavit and also the fact that on 06.03.2003 when the matter was taken up the order was passed which quoted herein below:-

“Sri G.C. Rai filed authority on behalf of respondent. None for claimant.

A preliminary objection has been raised on behalf of the respondent that as the workman has been terminated in the year 2009, so the present claim petition filed by him under the provisions of Section 2A(2) of the Act, so the same is barred by the period of limitation as provided u/s 2A(3) of the Act”.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from 1st April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation may be outlined as under:-

- (i) **Industrial Peace:** For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.
- (ii) **Economic Justice:** All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc. (*Hariprasad Vs. A.D. Divelkar, AIR 1957 SC 121*)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (*Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167*)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (*G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100*) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (*Standard Vacuum Oil Co. Errakulam Vs. I. Tribunal, Errakulam 1952-II LLJ 612*). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

“2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus,

individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in **ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041**, relevant portion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section

10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words 'at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words 'before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of **Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019** after taking into consideration the provisions of section 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. *The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.*

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. *The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.*

10. *In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."*

And in the case of **Parthasarathy vs. Southern Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner as time barred. This view is supported by the decisions of this Court in the following cases:-

- (i) *ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)*
- (ii) *Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)*
- (iii) *Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)*
- (iv) *K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)*

5. *A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the*

conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, the above said facts that the present I.D. case filed by complainant under Sub Section (2) read with Sub –section 3 of Section 2-A of Industrial Dispute Act, 1947 on 18.01.2021.

Aggrieved by impugned order dated 25.11.2009 by which the services were terminated/disengaged is beyond the period of limitation so the same is liable to be dismissed on the said ground.

For the foregoing reasons the claim filed by workman is dismissed being time barred.

Award as above.

Lucknow

Dated: 11.08.2023

Let to copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer